

Tustin  
1982

State of California

Department of Justice

## Memorandum

To : Commission on Peace Officer Standards  
and Training

Date : April 12, 1982

Peace Officer Licensing Panel

From : Commission on Peace Officer Standards and Training

Subject: Final Report

### Background

During October of 1980, the Commission on Peace Officer Standards and Training, along with the Peace Officers' Research Association of California (PORAC) and the California Peace Officers' Association (CPOA), sponsored a Symposium on Professional Issues in Law Enforcement. The participants numbered over 100 and included police executives, managers, rank-and-file officers, trainers, and various other interested parties. At the conclusion of this three-day conference, the issues which were of most interest to law enforcement were reduced to writing, with a recommendation that several task forces be formed to address these subjects in greater detail. The issue of peace officer licensing was one area selected to be addressed by a task force.

In the year that has passed since the Symposium, the Licensing Task Force made up of representatives of CPOA, PORAC, and POST have met frequently to discuss pertinent issues surrounding the licensing of peace officers, and to develop an initial draft of proposed legislation. The idea of licensing was reviewed by the Commission at its July 1981 meeting with the understanding that more work would have to be done before final legislation would be considered.

At its October 1981 meeting, the Commission directed its Legislative Review Committee to study the entire matter of peace officer licensing in more depth, and report back at the January 1982 Commission meeting. After hearing the Committee report and public testimony at the January meeting, the Commission deferred final action on the matter until additional public meetings were conducted throughout the State during February and March 1982. A Panel of four Commissioners was asked to serve on this ad hoc committee and to report its findings to the Commission's Legislative Review Committee. This document is meant to serve as that report.



### Panel Activities

The purpose of this Panel was to seek input from the field on the issue of peace officer licensing. The five public meetings, which were held in San Jose, Redding, Modesto, Los Angeles and Anaheim, were to address the general concepts of peace officer licensing and were not intended to focus on any particular legislation. The participants at these meetings were advised of the Commission's actions to date on the issue, and that a final decision on the matter would not be made until the comments from the field were heard and processed.

The format of the meetings was uniform throughout. After the introductions and general statement of what the meetings were about, the attendees were invited to express their views and ask questions of the Panel. Normally, those speaking in favor of the concept of peace officer licensing were asked to speak first. Their comments were followed by those speaking in opposition. The last group to speak were those with no particular point of view, but who wanted to speak to the issue. Comments were normally limited to five minutes for each speaker with an admonition that key points not be repeated by subsequent speakers.

### Analysis

Appendix A lists the names of those persons who attended each of the meetings. Appendix B identifies the speakers and the various comments on the issue of peace officer licensing that were made at the meetings. These comments were very similar to those made to the full Commission at the Commission meeting in January of this year. Those comments can be generally summarized as follows:

#### In Favor of Licensing

- Uniform state-mandated selection and training standards for all peace officers.
- Revocation of peace officer powers of persons no longer qualified.
- Enhanced lateral mobility for duly licensed peace officers.
- Greater emphasis on pre-service training.
- Possible reduction in the number of peace officer classes.

Commission on Peace Officer Standards and Training  
Page 3  
April 12, 1982

### In Opposition to Licensing

- The same results can be accomplished with the existing POST framework, by legislatively including all peace officers.
- Lessening of local control.
- Potential for increased cost to local government.
- Increases State administrative costs.
- Potential for adverse effect on protected classes.

From a review of the appendices, it is apparent that the issue of peace officer licensing is not one that generates widespread agreement on the part of law enforcement. In the testimony offered, support for licensing is principally from rank-and-file personnel, while opposition is principally from law enforcement administrators. Because of the limited input at these meetings, it is not known if this sampling actually represents the feelings of the majority of the field on peace officer licensing.

On the other hand, there did seem to be general agreement that the Commission should consider ways to strengthen the current POST program. Proposed changes which were mentioned included 1) broadening the program to include all peace officers, 2) revise current requirements for certificate issuance, and 3) tightening up the certificate revocation process. While not in total agreement as to what changes should be made, most of the various groups and individuals indicated that this approach was an acceptable alternative to pursuing the formal licensing program at this time.

### Comments

The Panel has reached a conclusion that the Commission should not support licensing legislation at this time. The input from the field indicates that this issue is not a priority item nor a subject that is widely understood. This perception, weighed with the Legislature's current preoccupation with the State's fiscal emergency, lessens the potential of any licensing legislation passing in this legislative year. This may be a matter the Commission will want to reconsider at some future date if substantial field support is indicated.

## Commission on Peace Officer Standards and Training

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April 12, 1982

The Panel does feel, however, that the issue of strengthening the POST certificate program should be pursued. Although we are not in a position to recommend changes at this time, the Panel suggests that staff be assigned to review various alternatives and report back to the Commission within six months. This would allow time for the Commission to make whatever regulation changes might be necessary or to prepare legislative changes to be introduced in January 1983, if this action is needed.

Recommendation

1. POST not support licensing legislation at this time.
2. POST staff be assigned to study ways to strengthen the POST certificate program.
3. POST staff report the findings of this study to the Commission at its October 1982 meeting.

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Commission on Peace Officer Standards and Training

VISITORS -- PLEASE REGISTER

Meeting - February 19, 1982

NAME and TITLE	CITY or AGENCY
DWIGHT HELMICH, CAPTAIN	CALIFORNIA HIGHWAY PATROL, SACRAMENTO
JON SCHORLE, CHIEF OF POLICE	SAN FRANCISCO STATE UNIVERSITY
DOUGLAS R. GROSHING, SERGEANT	SAN FRANCISCO AIRPORT POLICE DEPARTMENT
LONNIE BEARD, LIEUTENANT	SACRAMENTO CO. SHERIFF'S DEPARTMENT
DICK YOUNG, COP (RETIRED)	ALAMEDA CO. CHIEFS & SHERIFF'S ASSOCIATION
HAL RATLIFF, VICE PRESIDENT	PORAC, ZONE 1
ALAN GARCIA	PORAC, CENTRAL COAST CHAPTER
JOHN THEOBALD	CITY OF SAN JOSE PERSONNEL
TER C. UNSINGER	SAN JOSE STATE UNIVERSITY, ADMIN. OF JUSTICE
HARRY C. DANO	EAST BAY MUNICIPAL UTILITY DISTRICT
MIKE O'KANE, CAPTAIN	SACRAMENTO POLICE DEPARTMENT
DICK KLAPP, CAPTAIN	SAN FRANCISCO POLICE DEPARTMENT
DEIL R. M. STRATTON, CAPTAIN	WALNUT CREEK POLICE DEPARTMENT
ART ROY, SERGEANT	LOS GATOS POLICE DEPARTMENT
IM BONANDER, LIEUTENANT	PALO ALTO POLICE DEPARTMENT
. ELLIOTT, CAPTAIN	PALO ALTO POLICE DEPARTMENT
ERN RENNER, DIRECTOR	SANTA CLARA VALLEY CRIMINAL JUST. TRNG CENTER
RV LEWIS (HOST)	SAN JOSE POLICE DEPARTMENT

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Commission on Peace Officer Standards and Training

VISITORS --- PLEASE REGISTER

Meeting - March 10, 1982

Modesto, CA

NAME and TITLE	CITY or AGENCY
RONNIE A. BEARD, LIEUTENANT	SACRAMENTO CO. SHERIFF'S DEPARTMENT
JAMES SAAUS	CAL STATE STANISLAUS
PHIL OGDEN	CAL STATE PUBLIC SAFETY
GEORGE LAKE, SERGEANT	STANISLAUS CO. SHERIFF'S DEPARTMENT
MIKE O'KANE, CAPTAIN	SACRAMENTO POLICE DEPARTMENT
JOHN R. JOHNSON, CHIEF OF POLICE	TURLOCK PD/ Stanislaus Co. Chiefs/Sheriffs/ District Attorney's Association
ART VEORTMAN	STANISLAUS CO. SHERIFF'S DEPARTMENT
TIM HUFF	DEPT. OF FORESTRY, SACRAMENTO
ARCH SCHEFFEL, DIVISION CHIEF	SAN JOAQUIN CO. SHERIFF'S DEPARTMENT
ELDON KITTERMAN, MAYOR	CITY OF OAKDALE
LEN ETHERINGTON, CHIEF OF POLICE	HUGHSON POLICE DEPARTMENT
LARRY E. KISSELL	TRACY POLICE DEPARTMENT
JACK STORNE	ESCALON POLICE DEPARTMENT
ROD WELLS, CAPTAIN	STANISLAUS CO. SHERIFF'S DEPARTMENT
FRED WOODS, UNDERSHERIFF	STANISLAUS CO. SHERIFF'S DEPARTMENT
AL SALERNO	STANISLAUS CO. DISTRICT ATTORNEY'S OFFICE
GERALD MCKINSEY, CHIEF OF POLICE	MODESTO POLICE DEPARTMENT
DAVE SUNDY	OAKDALE POLICE DEPARTMENT
LYNN WOOD, SHERIFF	STANISLAUS COUNTY SHERIFF'S DEPARTMENT
ROBERT B. FULTON, CHIEF OF POLICE	WATERFORD POLICE DEPARTMENT
JIM MURPHY	TUOLUMNE CO. SHERIFF'S DEPARTMENT
BRUCE THON	TUOLUMNE CO. SHERIFF'S DEPARTMENT
JACK McARTHUR	CRIMINAL JUSTICE TRAINING CENTER



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Commission on Peace Officer Standards and Training

VISITORS -- PLEASE REGISTER

Meeting - March 17, 1982

NAME and TITLE	CITY or AGENCY
Edward Ballenger, Chief of Police	Bell Police Department
Donnie Beard, Lieutenant	Sacramento Co. Sheriff's Department
Frank Beeson, Chief of Police	Hermosa Beach Police Department
John Bell	Burbank Police Department
Harry Budds	R.T.D.
John Burnett, Chief of Police	Pomona Police Department
John Cheleu	Inglewood Police Department
John Christian	Brea Police Department
John Dahm	Glendora Police Department
Bert Gunnoe, Director	Los Angeles So. Chapter, PORAC
W. Hone	Torrance Police Department
John Heidke, Chief of Police	Maywood Police Department
Bill Johnson	Los Angeles Co. Marshal's Office.
Al Mante, Captain	El Monte Police Department
Mapes, Sergeant	Santa Monica Police Department
Ruce McDowell	Ventura County Sheriff's Department
McGinnis, Sergeant	Santa Monica Police Department
Raig Meacham, Chief of Police	West Covina Police Department
John C. Mennic	Culver City Police Department
John Merenke	Irwindale Police Department
Tom Millett, Captain	El Monte Police Department
James Moore, Chief of Police	San Marino Police Department

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Commission on Peace Officer Standards and Training

VISITORS -- PLEASE REGISTER

Meeting - March 18, 1982

NAME and TITLE	CITY or AGENCY
M. G. Adams	Orange County Personnel
Bob Bandurraga, Sergeant	Cypress Police Department
Mark Bergquist, Investigator	Tustin Police Department
Richard Breza, Lieutenant	Santa Barbara Police Department
John Burt	Riverside Police Department
Sergeant Chelstrom	Downey Police Department
Tom Christian	Brea Police Department
Ben Clark, Sheriff	Riverside Co. Sheriff's Department
James Corrigan, Chief of Police	Santa Paula Police Department
H. O. Davis, Chief of Police	Barstow Police Department
Ray Davis, Chief of Police	Santa Ana Police Department
Don Forkus, Chief of Police	Brea/Yorba Linda Police Department
M. K. Fortier, Chief of Police	Fountain Valley Police Department
Roy Gonzales, Personnel Director	Tustin Police Department
Richard Gray, Captain	Anaheim Police Department
Michael Guerin, Training Manager	Pasadena Police Department
Jim Guess, Captain	Orange Co. Sheriff's Department
Dale Hertzog, Sergeant	Fountain Valley Police Department
Lon Hettinger, Chief of Police	Imperial Police Department
Prince Jimno, Chief of Police	Carlsbad Police Department
John Kelpin, Training Officer	La Habra Police Department
Jimmie Kennedy, Acting Chief of Police	Anaheim Police Department

NAME and TITLE	CITY or AGENCY
Norm King, Sergeant	San Bernardino Co. Sheriff's Department
Stanley Knee, Captain	Garden Grove Police Department
John Lentz, Captain	Covina Police Department
Ron Lowenberg, Chief of Police	Cypress Police Department
Kelson McDaniel, Chief of Police	Los Alamitos Police Department
Ron Meehan, Chief of Police	La Habra Police Department
Joe Milazzo, Sergeant	La Habra Police Department
Robert Mills, Sergeant	Buena Park Police Department
Bob Oakley, Investigator	Newport Beach Police Department
Stacy Picascia, Chief of Police	Seal Beach Police Department
Earl Porter, Administrative Assistant	Santa Ana Police Department
Tim Powell	La Habra Police Department
R. C. Randolph, Marshal	San Bernardino County
Ferry Ramnell, Sergeant	La Habra Police Department
Ross Robertson, Captain	Garden Grove Police Department
Earle Robitaille, Chief of Police	Huntington Beach Police Department
Ron Rodgers, Sergeant	Newport Beach Police Department
James Rourke, Attorney	City of Tustin
Don Saviers	Westminster Police Department
Jack Shockley, Chief of Police	Westminster Police Department
Austin Smith	Golden West College
Mary Sperling	Golden West College

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APPENDIX B

COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING  
LICENSING HEARING #1  
SAN JOSE CONVENTION CENTER, McCABE HALL  
FEBRUARY 19, 1982

LIST OF THOSE TESTIFYING ON LICENSING ISSUE (IN ORDER OF APPEARANCE)

IN FAVOR OF LICENSING

- o Peter C. Unsinger  
San Jose State University  
Administration of Justice
- o Hal Ratliff, Vice President  
PORAC, Zone 1
- o Alan Garcia  
PORAC, Central Coast Chapter

AGAINST LICENSING

- o Dick Klapp, Captain  
San Francisco Police Department
- o Lonnie Beard, Lieutenant  
Sacramento Co. Sheriff's Department

NEUTRAL

- o Dick Young, COP (Retired)  
Alameda Co. Chiefs and Sheriff's Association
- did not wish to state a position, attended to listen to testimony.  
Association will formulate an opinion soon.



LICENSING HEARING  
SAN JOSE  
FEBRUARY 19, 1982

COMMENTS EXTRACTED FROM TESTIMONY IN FAVOR OF LICENSING

- Webster's Dictionary defines licensing as permission granted by a competent authority to engage in the business or occupation, or in an activity otherwise unlawful.
- The Penal Code talks about authority given to an individual, extending statewide - in essence, a license.
- P.C. 832 talks about a course of training and putting a trainee in a supervised field training program which, in essence, is a knowledge and skills practice or induction to a profession. These characteristics are found in all other licensed occupations.
- P.C. 832 - The Basic Certificate and minimum standards - this is, in essence, a licensing system and should be formalized.
- POST is a licensing agency - need admission of that fact and develop the proper mechanical format to make it a reality.
- Advantages of formalizing licensing:
  - standardization
  - license to work at certain levels
- Step to professionalization
- Prevent vicarious liability

COMMENTS EXTRACTED FROM TESTIMONY AGAINST LICENSING

- Licensing already exists in the form of a Basic Certificate which allows the practice of law enforcement
- Requisites for the Basic Certificate are sound
- Enhancing professionalism is the issue - the machinery to promote professionalism already exists in the Basic Certificate
- Relative to revocation - revocation proceedings can be strengthened or expanded, either by Commission Regulation or modifying the Penal Code
- Expansion at administrative level to deal with licensing would increase costs which would be defrayed from POTF - impact on subvention to local government
- Loss of local control

Commission on Peace Officer Standards and Training  
Licensing Hearing #2  
Redding City Council Chamber  
February 24, 1982

LIST OF THOSE TESTIFYING ON LICENSING ISSUE (IN ORDER OF APPEARANCE)

IN FAVOR OF LICENSING

- o David H. Swim, Sergeant  
Stockton Police Department, Chapter Director of PORAC

AGAINST LICENSING

- o Jack McDonald, Captain  
Redding Police Department

NEUTRAL

- o Jan Duke, Chief  
Oroville Police Department
- o Bob Shadley, Chief  
Willows Police Department
- o Phil Raner, Chief  
Anderson Police Department

LICENSING HEARING  
REDDING  
FEBRUARY 24, 1982

COMMENTS EXTRACTED FROM TESTIMONY IN FAVOR OF LICENSING

- Will set uniform training requirement standards
- Will set training standards for departments to follow in regards to supervisory and advanced officer courses
- Would create mobility for lateral transfers throughout the State
- A definite move toward professionalism
- Standardize entire concept of law enforcement
- Peace officers should be afforded same professional courtesy as other licensed practioners
- Current POST accreditation program does not meet the needs of licensing
- Create uniform hiring standards among departments

COMMENTS EXTRACTED FROM TESTIMONY AGAINST LICENSING

- Any requirements imposed by legislation could possibly cut out high school graduates
- Could pose high impact on hiring practices in rural areas
- Lessening of control by local entities
- Cost to local governments - where would the money come from?
- Increased administrative costs
- Concern over revocation of licenses - local or state review for revocation?
- Possibility for increased in-service training - what is the ramification on administrative personnel for not providing that training?
- If the licensing extended to all peace officers in PC 830, then POTF monies would be spent on those not in the POST reimbursement program.

COMMENTS ON NEUTRAL POSITION

- Should proceed with caution on any form of licensing
- Begin the licensing program with peace officers and proceed with administrative personnel if and when necessary

COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING  
LICENSING HEARING #3  
STANISLAUS CO. SHERIFF'S DEPARTMENT  
BOARD OF SUPERVISORS CHAMBERS  
MARCH 10, 1982

LIST OF THOSE TESTIFYING ON LICENSING ISSUE (IN ORDER OF APPEARANCE)

AGAINST LICENSING

- o Eldon Kitterman, Mayor  
City of Oakdale
- o John Johnson, Chief of Police  
Turlock Police Department  
Stanislaus Co. Chiefs/Sheriffs/DA's Assn.
- o Lynn Wood, Sheriff  
Stanislaus County
- o Len Etherington, Chief of Police  
Hughson Police Department
- o Robert Fulton, Chief of Police  
Waterford Police Department  
Stanislaus Co. Chiefs Assn.
- o Gerald McKinsey, Chief of Police  
Modesto Police Department
- o Dave Sundy, Chief of Police  
Oakdale Police Department

LICENSING HEARING  
MODESTO  
MARCH 10, 1982

COMMENTS EXTRACTED FROM TESTIMONY IN FAVOR OF LICENSING

No proponents in attendance who wished to speak.

COMMENTS EXTRACTED FROM TESTIMONY AGAINST LICENSING

- Certificate is prime document for employment in law enforcement
- Licensing would be a duplication of certification
- Agencies could strengthen issuance and revocation procedures for certificate
- Another means for State to obtain money
- Lack of established need
- Loss of local control due to a regulatory process
- Lack of cost effectiveness
- Would bring on necessity for revocation (hearings, lengthy procedures)
- Too expensive
- Create more bureaucracy
- Have thus far controlled the quality of training and quality of individuals who are peace officers
- Complete disservice to law enforcement and citizens in general
- Would have adverse effect on affirmative action
- Passing the licensing test would not ensure that an individual would have the ability or competence to apply what he has learned or retain it
- The revocation of a license would be more difficult than the termination of an employee for good cause at the local level
- Increase in administrative costs which would probably draw from the POTF

Commission on Peace Officer Standards  
and Training  
Licensing Hearing #4  
Los Angeles Co. Sheriff's Dept.  
Main Jail Facility  
March 17, 1982

LIST OF THOSE TESTIFYING ON LICENSING ISSUE (IN ORDER OF APPEARANCE)

IN FAVOR OF LICENSING

- o Robert Gunnoe, Officer  
El Segundo Police Department  
Director, Los Angeles So. Chapter PORAC

AGAINST LICENSING

- o Craig Meacham, Chief of Police  
West Covina Police Department  
Los Angeles Co. Chief's Association
- o David Snowden, Chief of Police  
Baldwin Park Police Department  
California Peace Officer's Assn.
- o Les Sourisseau, Chief of Police  
Montebello Police Department  
California Police Chiefs' Assn.
- o Mark Squiers, Captain  
Los Angeles Co. Sheriff's Department



LICENSING HEARING  
LOS ANGELES  
MARCH 17, 1982

COMMENTS EXTRACTED FROM TESTIMONY IN FAVOR OF LICENSING

- Licensing would enhance law enforcement as a true profession.
- Licensing would ensure the public the professional protection it is entitled to and would ensure standards of equal protection.

COMMENTS EXTRACTED FROM TESTIMONY AGAINST LICENSING

- The licensing issue is redundant since all arguments for licensing are available under the POST Certification Program, or can be made available through slight modification of the POST Program.
- The creation of a licensing Commission is totally unacceptable. It is a further intrusion of the State into the areas that are traditionally and solely local jurisdictional responsibilities.
- Licensing would be a drain on the training funds and would not be cost effective.
- The concept is totally without merit, and the Commission is urged to take a position of opposition.
- Licensing would be an infringement on local authority and local control.
- Based on information received from Florida, the revocation process is tremendously time consuming, averaging two man-weeks per case.
- Licensing would be a misuse of POST funds as funds should go for training.

Commission on Peace Officer Standards  
and Training  
Licensing Hearing #5  
Anaheim Police Department Training Annex  
March 18, 1982

LIST OF THOSE TESTIFYING ON LICENSING ISSUE (IN ORDER OF APPEARANCE)

AGAINST LICENSING

- o Ray Davis, Chief of Police  
Santa Ana Police Department  
President, CPOA
- o Ron Meehan, Chief of Police  
La Habra Police Department  
President, Orange Co. Chief/Sheriffs Assn.
- o H. O. Davis, Chief of Police  
Barstow Police Department  
San Bernardino Police Chief's Assn.
- o James Rourke, City Attorney  
City of Tustin
- o Fred Wakefield, Captain  
Tustin Police Department
- o Mark Bergquist, President  
Tustin Police Officers' Assn.
- o Don Forkus, Chief of Police  
Brea/Yorba Linda Police Department
- o Jack Shockley, Chief of Police  
Westminster Police Department
- o Jim Guess, Captain  
Orange Co. Sheriff's Department
- o Jimmy Wilson, President  
Stanton Police Officers' Assn.
- o Vince Jimno, Chief of Police  
Carlsbad Police Department
- o Ben Clark, Sheriff  
Riverside County
- o Ron Rodgers, Training Sergeant  
Newport Beach Police Department

LICENSING HEARING  
ANAHEIM  
MARCH 18, 1982

COMMENTS EXTRACTED FROM TESTIMONY AGAINST LICENSING

- Today's attitude on the part of the people is for less and less government. Licensing would create more government.
- More bureaucracies would be created through the mandates of licensing.
- There would be loss of local control.
- Concern over the identification of levels of police service and types of police officers as compared to the community needs.
- Concern over the changes in the direction of the original POST philosophy of involuntary involvement in the process.
- Those things that are being claimed as benefits from licensing can be obtained from the existing POST framework.
- There would be increased administrative costs which would have to be added to the state budget and would be an unnecessary financial burden on the State's already depleted coffers which would have to be borne by local government.
- Duplication of the administrative processes in terminating or disciplining officers. With licensing there is no way to prevent a dual situation with the State with its regulations and the city or county with their regulations. The local jurisdiction may have higher standards than the State with the question of which standards are going to apply. This would have to be dealt with on both local levels as well as state level.
- Licensing would create another area of civil liability.
- Would place existing funds for training in jeopardy.
- Would place considerable costs on the officer in paying for the license.
- Object to the possibility of the establishment of a Police Review Board.
- Would eliminate the present level of confidentiality of all police records as it relates to police personnel.
- Licensing would ultimately create a state police union or labor organization.

- Agencies would be forced to hire regularly paid police officers, eliminating the Reserve Officer Program.
- There has been no well-defined need for licensing nor any defined problems with the current certification process.
- Problems with taking lateral entries with a state police license versus open entry level people. These things will be convoluted through due process with employee rights problems.
- Would add continued administrative problems for chiefs in trying to maintain the quality that the community expects from the police department, not what a Commission in Sacramento thinks they should have in their town.
- Licensing does not make a professional.
- The number of peace officers should be reduced. There is 90% licensing now through certification.

- To: ☐ Executive Director  
☐ Deputy Director  
☐ Asst. to Executive Director  
☐ Information Services  
☒ Standards/Evaluation Services  
☐ Administrative Services  
☐ Management Counseling Services  
☐ Training Program Services  
☐ Field Services  
☐ Training Delivery Services  
☐ Others:

LICENSING

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From:

*Don*

Date:

*3-23*

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☒ Information

☐ Comment and Return

☐ Other:

*This is info sheet passed  
out at Police Management  
Meeting in L.A.  
(Tustin P.D. authored)*

ing bill must be prepared to take  
them into the future. Proponents  
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The future brings about many  
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amendments could come from either direction, labor, management,  
or court decision.

In a general brainstorming session, I attempted to look forward  
as to how the future may involve this particular law in  
reference to rank and file, local concerns, statewide concerns,  
and general concerns which apply to all three.

RANK AND FILE

1. HOW CAN LICENSING HELP LATERAL MOBILITY?

As the present law stands, lateral mobility is an issue  
that is totally within the recruitment determination of  
the agency doing the hiring. The proponents indicate that  
this bill will not, in any way, limit local control in  
this area, but at the same time, are proposing that it  
will increase lateral mobility. It is still up to the  
local jurisdiction as to whether or not they wish to hire  
laterals and what the process for hiring a lateral will be  
in the requirements. Presently the POST Basic Certificate  
seems to be a statewide criteria, along with at least one  
year experience for lateral mobility in any portion of the  
state. A license would no nothing to change that.

## POLICE LICENSING

The proponents of police licensing indicate the following positive aspects of licensing:

1. Increased community support.
2. Support of police profession by other professions.
3. Increase in pay (after short period of time due to increased requirements).
4. Improve and equalize benefits throughout the state.
5. Ability to compete statewide for peace officer position. The issuance of a license would give a correctional officer the same status to compete for peace officer position in any portion of the state with any jurisdiction.
6. Ability to remove unfit peace officers from service.
7. Licensing as a pre-condition to employment thereby saving training costs.

The reader of a police licensing bill must be prepared to take its implications and project them into the future. Proponents will frequently say that we're only talking about what's in this bill at this time. We must realize that there are very few bills that ever remain exactly the same after they have been introduced and adopted. The future brings about many changes in any law that is adopted to make it "more workable for those involved." That being such a broad statement, amendments could come from either direction, labor, management, or court decision.

In a general brainstorming session, I attempted to look forward as to how the future may involve this particular law in reference to rank and file, local concerns, statewide concerns, and general concerns which apply to all three.

### RANK AND FILE

#### 1. HOW CAN LICENSING HELP LATERAL MOBILITY?

As the present law stands, lateral mobility is an issue that is totally within the recruitment determination of the agency doing the hiring. The proponents indicate that this bill will not, in any way, limit local control in this area, but at the same time, are proposing that it will increase lateral mobility. It is still up to the local jurisdiction as to whether or not they wish to hire laterals and what the process for hiring a lateral will be in the requirements. Presently the POST Basic Certificate seems to be a statewide criteria, along with at least one year experience for lateral mobility in any portion of the state. A license would no nothing to change that.



What benefits, if any, will accrue to the public as a result of this increased lateral mobility? Will not we in fact end up in the situation (that the CHP now experiences) in which the vast majority of those people in the metropolitan, high crime areas, are less experienced and less competent; while those in the rural, low crime areas, are greatly experienced and (at least in theory) much more competent.

## 2. PAY COULD ULTIMATELY BE ON A STATEWIDE BASIS.

Presently Highway Patrol Officers in all portions of the state are within the same pay structure. The ultimate goal of one of the licensing issues, although not publicly stated at this time, is to improve and equalize pay throughout the state for police officers. This is of great concern because:

(a) Increased education and training have recently been the basis for improved salaries. This law does nothing to increase education or training.

(b) Funding for equal pay, statewide, for police officers would bankrupt many small cities or cause them to either expand to paraprofessionals and/or permit security guards and thereby erode the very benefits sought.

But how would the lower paying agencies ever be able to monetarily catch up with the higher paying agencies? That is the basic question. There appears to be only two ways this can be achieved within a reasonable period of time. They are:

(a) Have the state establish the pay structure and supplement those cities with direct payment for salaries to bring peace officer salaries up to whatever that pay schedule is. To hold the higher paying agencies to a specific level of pay, not allowing any pay increases until the rest of the state catches up.

(b) Set a statewide pay standard and raise or LOWER local salaries to meet it. As can be seen, this is going to create great concern amongst the rank and file for those who do not receive pay raises. It's also going to be a heavy burden on the state's financial resources in order to adequately bring forth the pay that is necessary for the cities and counties that must catch up with whatever is decided.

In the state of Minnesota, peace officer salaries have increased 40% since licensing was implemented. However, it is interesting to note that, although that 40% increase occurred as a result of licensing, the state of Minnesota is only equal to entry level pay with California cities.

### 3. PRESENT LICENSING OF THE VARIOUS PROFESSIONS

Lawyers, doctors, the type of professions that are out front, dealing with the public frequently, are heavily embattled in mal-practice suits. It would be interesting to project a state licensed police officer being sued for mal-practice (for punitive damages only) and the removal of his license through a court action. This would be one way that community based groups could attack individual officers that they have deemed to be harassing their individual minority communities. A law suit to revoke a police officer's license would be a very interesting test of the validity of professionalism through licensing.

The sanctions available to the public against malpractice, maleficence or misfeasance as it relates to the classical professions are rather limited. For the most part, a malpractice suit. This is not the case with current police organizations who with their supervisory command structure are very sensitive to public concern and criticism.

### 4. CONTRACTUAL HIRING OF POLICE OFFICERS COULD BECOME MORE OF THE BASIC CRITERIA FOR EMPLOYMENT AS A POLICE OFFICER.

Presently, cities involve themselves in contractual agreements for many positions. The city of Tustin uses a contractual agreement with our City Attorney. It would be interesting to see if cities at some time in the future would go to this process of hiring and hire the licensed police officer with the lowest bid that came in for the job.

### 5. CIVILIAN REVIEW BOARD.

The POST Commission presently has several designated positions on it, representative of the Attorney General, Police Chiefs, community member-at-large, etc. It is interesting to note that all POST Commissioners are appointed by the Governor. At the present time, the POST Commission is heavily weighted in the favor of organized labor, because that is an area in which our present Governor has bias. A future Governor could have a different bias and attempt to establish a Civilian Review Board process. He could stack the POST Commission, which had become the deciding body in the revocation of licenses.

## 6. EROSION OF PROMOTIONAL PROCESS.

There could be an argument that a licensed police officer has the authority and the advanced training in which to make decisions, therefore the need for additional supervisors will not be necessary. This could erode the promotional process for many agencies, taking that particular posture.

The promotional process as proven to be of great benefit to the public and to the agencies throughout the years in providing a check and balance against the enthusiasm of officers by inserting supervisory positions who have been conditioned to be extremely sensitive to public needs.

## 7. STATE GAINS ACCESS TO ALL RECORDS OF ALL PEACE OFFICER PERSONNEL.

The law as presented opens up all records of the police department to inspection by POST staff. These records are not held to a specific requirement as the present law is in the area of training records and the hiring process only. This would open the entire:

- (a) Officer Personnel files.
- (b) Internal investigation files.
- (c) General records of the police department.
- (d) City personnel files.
- (e) Any other records or files that are maintained by the department concerning any officer.

## LOCAL CONCERNS

### 1. HOW WILL (OR HOW HAS) LICENSING EVER HELPED THE PUBLIC?

In the proposed law, they are looking towards increased training requirements which could ultimately result in higher educational standards to become a police officer anywhere in the state. The effect of this on local control would be:

- (a) Increased hiring standards.
- (b) Increased pay for peace officer positions due to increased requirements.
- (c) Narrowing the recruiting base of eligible applicants.
- (d) Exclude minorities and others from the hiring pool through increased qualifications.

### 2. DO WE REALLY NEED THIS HIGH A LEVEL OF MINIMUM STANDARDS FOR A QUALIFIED STREET POLICEMAN?

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- (a) The present requirements are extremely high and in effect set the national standard for law enforcement training. California POST requirements have been the basis for many other states forming their own Commissions and minimum training standards. We are amongst the highest, if not the highest, in the nation. Definitely, ours is the best administrated in the nation.
- (b) How much educational requirement does a street police officer need? We have been doing very well for many years with the high school education that is necessary and then providing in-house and external training in order to bring the proficiency of individuals to an acceptable level.

### 3. INCREASED COST TO SAFETY RETIREMENT FUNDS.

- (a) By elevating more than 21,000 people to a licensed police officer status, which they do not now have, will place them in the safety retirement area.
- (b) If they are not already in the safety retirement realm, they will be seeking inclusion in that area due to the increased benefits.
- (c) Who will pay for this additional burden on overtaxed retirement/pension funds?

### 4. WHO WILL PAY FOR LICENSES?

Is this a negotiable item, or is it one where the individual has to pay his own fee? Attorney's pay their fees, doctor's pay theirs, nurses pay theirs. I assume that this will be a fee born solely by the licensee and not become a matter of collective bargaining in any way.

### 5. RESERVE PROGRAMS.

The concept of volunteers in public service is as representative of Americanism as mom's apple pie. Let's take a look at what has happened to our police reserve programs and see if it is in the best interest to the public. A decade ago the average small to medium size law enforcement agency had nearly as many reserves on its roster as it did regular officers. The police labor unions (PORAC et.al.) began gaining lots of power at this time and they saw the reserve forces as impediments to their memberships, and salary desires. They were viewed as "scab labor" or as supplanting officers from paid details. Most of the standards for reserves have subsequently been set, directly or indirectly by the

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police unions. These standards have served their intended purpose and have acted as "de-selectors." Today, few law enforcement agencies have an adequate reserve force to respond in really critical emergencies or disasters. Has this been in the public's best interest? Does the public even know about the genesis of the reserve standards and how much control they have lost in their own communities?

### STATE CONCERNS

1. POST STAFF IS PRESENTLY REPRESENTED BY "CAUSE" WHICH IS AN AFFILIATED ORGANIZATION WITH "PORAC." THESE ARE UNIONS .
  - (a) How can a staff of personnel represented by one union and affiliated with another do comprehensive and objective evaluations and investigations into an area in which they are unionized. This appears to be a definite conflict of interest .
  - (b) With the same concerns listed in (a) how can this staff provide inspectional services with this type of affiliation and be fair to all parties concerned, in a revocation matter, and by all parties, that includes the person having his license revoked, and the administration requesting that it be revoked.
2. STANDARD REQUIREMENTS FOR POLICE OFFICER STATUS.
  - (a) The State of California has some of the highest requirements for police officer position already. There seems to be no change in the proposed legislation, other than what we already have.
3. PRESENT OCCUPATIONS THAT ARE LICENSED HAVE LESS CONTROL BY THE PUBLIC.
  - (a) Contractors licenses in the state of California are a joke. The license board has never revoked a contractor's license to anyone's knowledge, nor do they pay any attention to the public's concerns in reference to enforcement on licenses.
  - (b) Doctors do not have any type of actions taken against them of any significance. It is interesting to note that there are approximately 66,000 doctors in the state of California, an identical number to that of police officers. The actual revocation of a doctor's license has to be "gross negligence" beyond anyone's fondest dreams and has to be an absolute intentional act of misconduct. Hardly ever has a doctor's license been revoked and seldom if ever has been one revoked permanently.



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#### 4. FINANCIAL CONCERNS.

Ultimately this will increase police officer costs throughout the state which, if this bill is passed, should be borne totally and not in part by the State of California. With state funds comes further state control.

#### GENERAL CONCERNS

##### 1. THIS LAW DOES NOT INCLUDE A REVOCATION PROCESS.

- (a) The law merely states a license can be revoked, it does not set up the mechanism or procedures for revoking such a license. It is not clear, it is not understandable as to whether or not this will benefit anybody or be a repeat of the State Contractor's License Board.

##### 2. THIS APPEARS TO BE A UNION ISSUE ONLY.

- (a) After the initiation of this law, I'm sure a new union will be formed called the "State Licensed Police Officers Association" or something similar.
- (b) They appear to be going rabbit hunting in the licensing issue with an elephant gun. We are creating a very broad law to solve very minor problems.

##### 3. PRICING OURSELVES OUT OF SERVICE.

- (a) As can be seen by the auto industry, there have been tremendous cutbacks and farming out of work to foreign nations in order to get a lower cost product of similar design that had been manufactured in the United States. It has also resulted in the auto unions overpricing their basic product, the automobile, through wage and benefit increases, to the extent that the average consumer cannot afford them.
- (b) In a like sense, cities could begin to contract more private police as opposed to general law enforcement; more para-professionals to remove the duties of police officers; reduce service levels because of increased costs, thereby reducing the number of officers available to the general public.

Any person considering licensing should look to the future and not to the smokescreen proposed legislation that we have presented here.

DRAFT  
November 1981

BEN CLARK, SHERIFF  
RIVERSIDE COUNTY

## POLICE LICENSE

### INTRODUCTION

Professionalism in law enforcement has been a subject of discussion for many years. It's a subject that excites many in the field of criminal justice, but really doesn't generate a great deal of interest in the public at large. There are many definitions of professionalism as it applies to any occupation. Some of the definitions that are the most common would probably exclude the law enforcement or peace officer. The reason for exclusion is that the definition of "the professional" is one that has as a part of the criteria, "sets his own hours" and "his own salary" or is subject to his or her discretion. These two things would exclude the peace officer, or for that matter almost anybody working in government. A great debate could be had over the professionalism in law enforcement and the discussion would probably be interesting, but it is of no major consequence in a licensing discussion, because licensing doesn't necessarily mean professionalism.

The discussions that have been held for the last several years, about the licensing proposals for California peace officers, are almost a verbatim discussion or argument held during the formulation of the original POST program and its concept. In introducing or discussing licensing, a peace officer should go back and re-read the discussion and the history of the formation of POST. The reason for this is, that there is nothing new that's being said. One may argue there is something new; which has to do with the mandatory nature of a licensing concept versus the voluntary program that was the foundation of the POST program in California.

Just to follow some of the steps: in the fifties was the discussion that led to the POST program (that was selection and training of peace officers); in the 1960's was the discussion and establishment of the certificate program, certificates were thought to be worthwhile for two reasons; a record of what a person has accomplished after they have been through

a course and tested, and secondly is to have a carrot on a string, so to speak, to show you are recognized in the police field if you do certain things as far as training and 2. education are concerned. Following the implementation of selection, training and certification, the 70's saw the licensing issue come into being.

One of the problems with certification is the use of the certificate. The use has probably led to licensing, as increased militancy or union activity increased in the government employment. Unionization of the police has led to the use of the certificate as a bargaining tool. This was a "prostitution" of the certificate as it was envisioned and discussed in the 50's and 60's, however, it was done. Now a step to do something with that certificate more from a practical union tool in a licensing concept is probably the only real difference that's taking place in the discussions.

As anyone discusses licensing, there is a necessity to establish a base or some of the elements. The reason is that there have been several proposals about licensing and they have varied. In order for my comments to be worthwhile I am establishing the elements of a licensing bill before I critique licensing so that my comments about licensing are based on the elements that are in this paper; nothing else. This paper is a general answer on the licensing pros and cons with the elements as I see them.

#### ELEMENTS OF LICENSING PEACE OFFICERS

There is a desire by some in the law enforcement field to issue a state license for peace officers.

1. The legislation would probably start out holding, "The legislature finds law enforcement a critical...."; and based on this, the law would be based upon "the need to upgrade law enforcement".



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2. An element would be to cover all peace officers defined in the codes. There are approximately seventy some different people that are named as peace officers in codes. The licensing bill is to cover all of these peace officers.
3. The power to enforce the law would be given to POST. The enforcement of all the elements would be theirs. For simplicity, the bill will incorporate all the existing rules of POST.
4. Training and education requirements will tie in some way to formal education by stating the requirement in units, hours, etc.
5. Training and education requirements establish three levels, a probation, an entry and advanced level, for the practicing peace officer.
6. Screening or selection processes would specify such things as background investigation, arrest record, medical requirements and knockout factors.
7. Issuance of the license will have two levels; one a temporary or interim probation; and permanent. This would probably be different than the training and education levels as far as probation entry and advanced, so that you would have then the issuance as a separate issue.
8. The law would provide that the licenses are the property of the state and they can be revoked. The section on revocation would probably be rather long in an attempt to specify those things that could be used by the state to revoke a license.
9. A statement in the legislation somewhere indicates the license is applicable anywhere in the state.

There may be other issues that individuals may crank into a particular law on licensing, but my comments are based on these nine elements that I see as probably common to most of the different kinds of legislation which might be introduced.

#### CRITIQUE OF THE ELEMENTS

1. Finding that "law enforcement is critical to the state of California and that the basis for a law is to upgrade law enforcement" is commendable. This was the basis for the POST program. I recognize that the POST program only applies to the municipal police departments and the sheriff's departments. This law would apply to cover all peace officers as defined in the Penal Code, making it broader than POST is presently.
2. Since the POST program became effective, there have been at least four attempts to do something with the definition of a peace officer. Two of these issues have led to the change in the Penal Code; from 817 to 830, and then 830 has been changed in the last couple of years. The problem remains. The definition of peace officer is no clearer today than before. It will never change unless the legislature looks at the jobs and definition and eliminates peace officer status. To reduce the numbers and make some sense out of a definition of peace officer is not politically possible. Practically and administratively, it can be done. However, anyone who's watched or participated in the discussions of the legislature during the time that they have undertaken a definition of "peace officer", the politics of the matter have always gotten in the way. Each special group objects when left out of the definition. There are many regulatory officers that should not be peace officers, by any stretch of the imagination, but they remain - politics.
3. Integration of the present POST requirements for municipal police and sheriffs, and those in the special category is a possibility. A law could be drafted that would take

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the present POST regulations and codify them so that they could apply to those particular peace officers that are now covered. I would only restate what was stated in paragraph two above, <sup>to</sup> create a simple law to apply to all peace officers is a practical political impossibility.

4. Training and education for a license in the peace officer category is going to be rather difficult. The reason is that even though police training in community colleges, state colleges and universities exist, there is no unanimity. Easily defined courses, units, hours, etc., do not exist. The police field has not concentrated on developing relevant and specific upper division courses of training of the peace officer. It's possible to be done. However, we're still taking "off the shelf courses" and "off the shelf degrees" and applying them to the peace officer. This particular element in the licensing bill is premature unless it could be changed easily when such courses or degrees exist.
5. Education and training levels. This would probably be the most difficult area. How to write a bill that specifies levels when the actual jobs vary so wide is a monumental task - When you consider this license is for a state peace officer. Even a core curriculum concept for a license for all these different types of jobs is impossible for one reason, to reach the core you water down the criteria so much that a license is then a farce. Again, the answer to solve this problem is to reduce the number of peace officers covered in the codes. Summary on the issue of education and training, it can be done and done administratively and technically. The practical issue of the politics is what's going to stop it.
6. The screening prior to the issuance of the license, (background and various knockout factors) probably can be handled administratively with a minimum amount of problems. In the early days of the POST program there were many attempts and in fact rules were

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established on things that were later found to be inconsequential. So that based on that history, simple criteria can be established. The big problem - who would do this? A state license? Then the state will do it. How? By creating a large bureaucracy.

7. The issuance of the license in two steps, one on a probation or interim basis and the other after a person has attained proficiency is possible. More paperwork!
8. The revocation of the license and the provision in the law which makes the license the property of the state is possible. The great difficulty arises here in revocation for cause. This will create conflict between a local agency and the state. The state can't or won't revoke a license from someone who is going to be terminated by a local agency. There may be sufficient evidence for a termination, but not sufficient evidence for a revocation of a license. This is going to establish a tremendous problem that all agencies have that employ people where licenses exist.

An example of the conflict can be shown in the teaching field (which is familiar to most peace officers). The police are engaged in the investigation of illegal activity of a teacher with students where the teacher may be terminated, but for all practical purposes the license cannot be revoked. The knowledge of those kinds of legal battles between the district and the employee are known and are expensive.

9. The use of the license anywhere in the state is no major change from certificates, as long as the right to accept or reject an applicant remains with the agency. There are other licenses that exist in the state where challenges have led to a lessening of local choice.

What about costs?

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In only two of the above comments on the elements has there been a reference to the costs. Before a license program is undertaken, there should be a serious effort made not only by the proponents, but also the opponents and the state legislature, to compare these licensing elements to like elements in other licensed vocations. The reason for this would be to indicate what the costs are in administering these other licenses and the effectiveness of the administration of those licenses. Very often we pass a law and think we are going to solve a problem, when in fact we really add a problem. As far as the licensing elements, they are simple and straight forward on the surface, but they will create administrative difficulty and increase the total cost.

The licensing programs in other vocations over the years have almost become automatic. There is nothing to say that the police licensing wouldn't follow these same steps. This won't happen in the first four or five years, but down the road five or ten years, the license will probably mean less and less "upgrading law enforcement", and more and more as far as "a tool for conflict".

#### COMMENTS UPON SOME OF THE PROS AND CONS

There are probably a hundred arguments that can be raised for and against the concept of licensing, however, in my view they boil down to a few. Maybe all of them are not alluded to here and it isn't intended to reflect all of the arguments.

#### PRO

1. Upgrade law enforcement. There should never be any hesitation to do anything that could upgrade law enforcement WITHIN REASON. As a practical matter, local police and sheriffs have been upgraded tremendously in the last few years. The feeling to upgrade all peace officers is commendable. To pursue this administratively and academically is fine, but it is a practical impossibility. Peace Officer must be defined. It's been

tried but once an objection is raised, the legislature includes everyone that is there now. Even though the argument in favor of upgrading law enforcement is one in favor of licensing, the practical issue of getting all peace officers involved is "difficult" to say the least.

2. Cover all peace officers. The same comment as above in number one.
3. Obtain education before hiring saves money. This would specify the course of education training to be obtained, necessary to obtain a license. It would eliminate the necessity for local agencies to pay for training after a person has been hired. This is a commendable feature, one that local law enforcement has been working toward and is slowly making use of by hiring persons who have completed basic training. However, the attrition rate in the state of California could not at this time be supported by persons that would be completing the training on their own so that as a practical matter, the licensing would still be run in the same general fashion as the present POST program. Departments will continue paying for much of the training before a person is licensed.
4. Save on testing and selection. With a licensing procedure, there would be little necessity for testing by each agency before selection. Regardless of what ideal conditions would establish a license procedure in California, it would probably be many years before agencies would totally drop the testing so that immediate reduction in this cost would be a number of years away.
5. Used anywhere in the state as an argument in favor of licensing has little value insofar as local agencies are concerned. Today local agencies are accepting the POST certificates and these certificates are used anywhere in the state. So there would be no real change in this particular procedure at the local level. Further, with one



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license in existence for peace officers, a problem is compounded on lateral movement and actual experience.

6. Increase mobility. From my experience there has been no lack of mobility recently in the police field. The issuance of a license wouldn't necessarily make anything better or worse than it is at the present time as far as mobility is concerned.
7. Revocation of license. The revocation of a license would be more difficult than the termination for cause at the local level. The license probably would more get in the way rather than enhance any kind of a program at the local level, so it's a "con".

#### CON

1. Establish a large bureaucracy in state government. At the present time the POST staff is supposed to monitor the training, education and hiring of peace officers in California at the local level. They have a difficult time maintaining even a minimum effort in this regard. The total licensing program run by a state agency would probably increase the size of the POST staff some five times just to minimally handle the criteria of the elements referred to in this paper.
2. As the license becomes more common place in the state, the potential for increased costs at local government cannot be calculated, but they would be there. Even though testing could be abolished and some of the background investigation reduced and people would obtain education and training before they came within an agency, that would be quickly overshadowed when there develops the challenge to the termination of a licensed peace officer, conflict resolution and negotiations.
3. Arguments against licensing, such as having to hire anyone and that local control is



lessened and licensing doesn't necessarily make a professional, really can be summed up along with maybe several other issues in the same issue as increased costs to local government as the program continues. There is also the fear of using the license in trying to establish common pay schedules in the state. This hasn't been true of many other licensed public employees, but there is that possibility.

#### SUMMARY COMMENT TO THE PRO AND CON

In a very few words, I think that the pros and cons to police licensing can be answered by anyone after looking at the licensed vocations in the state. We have a number of them, such as teachers, registered nurses, doctors, lawyers, etc. It never ceases to amaze me that even though a license exists, and all the so called protections and criteria are built in for the protection of the public, the last one protected is the public. Little or nothing is done by the groups administering the licenses to insure that the public is protected. Violations continue and licenses still exist. Initially one can see a lot of "benefits" from licensing, but common sense tells you that over a period of time, any licensing benefits that may accrue are going to be very minimal. What will be created is another bureaucratic problem to the administrators of law enforcement.

#### OPINION

A licensing bill will probably be adopted in the state of California in the next few years, and that is too bad. But as the discussions are held, everyone that's involved in law enforcement should make sure that they maintain a constant contact with the legislature so that at least an opportunity is presented to the legislature for them to know the pitfalls of what they may be considering.

My personal opinion is that the licensing is not needed.

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the argument in favor, to upgrade all peace officers, is facetious. It can be done today, but with some give and take. The extension of the POST program, to cover all peace officers could be done today. The problem is money.

I accept the fact that the legislature lacks the intestinal fortitude to reduce the number of peace officers defined in the codes. So we are stuck. Making the best of a poor situation I would rather see a reduction in the POST reimbursement than to see licensing. The reason I say this follows in a couple of sentences. The peace officer groups that would be brought into an expanded POST program would be looking for some subvention for the training that they participate in. There is no increase in the POST fund on the horizon. If the POST commission establishes a broader perspective to take in all peace officers and set standards and enforce them, they need staff. The money that is now being returned to local government from the POTF would be reduced because more and more of that money would be necessarily spent on the administration. I would be more in favor of establishing a broader base for POST and cover all peace officers with the training programs necessary and administer those programs and have less dollars at the local level, than to see a licensing bill established for peace officers.

I restate the desire to upgrade law enforcement is commendable. Licensing will not upgrade anyone. About 70 percent of all the present peace officer categories should be abolished by definition. Those remaining could be covered by POST. A reduced amount of money will be spent in salary reimbursement and more money spent on administering a training, education and selection program for those peace officers remaining in the code. This could upgrade law enforcement in California.

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# Memorandum

To : Management Team

Date : January 12, 1982

*Dub*  
Don Beauchamp, Assistant to Executive Director

From : **Commission on Peace Officer Standards and Training**

Subject: PORAC Licensing Bill

Attached is the final PORAC version of the licensing bill which they intend to introduce immediately. They have indicated a willingness to amend the bill, once it comes out in print, if the amendments do not change the thrust of the bill.

I invite your comments on possible amendments, etc.

Attachment

1-11-82

## CHAPTER 2 PEACE OFFICER LICENSING

(An Act to add Sections 13525 Et Seq to the Penal Code)

### Article 1. Legislative Findings and Definitions

P.C. 13525. The Legislature finds and declares:

- (a) That the occupation of peace officer is a profession requiring adherence to high standards of selection, education, special training, and ethical conduct.
- (b) That the technical competence of persons practicing this profession is a matter of the highest significance to the health, welfare, and safety of the citizens of this state.
- (c) That the establishment and maintenance of high professional and technical standards is best accomplished by the licensing of persons who are, or seek to become, peace officers.
- (d) That the recognition of peace officers as professionals having both status and obligations beyond the temporary conditions of employment will further enhance observance of professional standards.

P.C. 13526. As used in this chapter:

(a) "Commission" means the Commission on Peace Officer Standards and Training.

(b) "Subject matter examination" means an objective examination approved by the commission to be used as an instrument to verify possession of a sampling of the knowledge and skills as outlined by the commission in a basic course, the successful completion of which shall be mandatory for any applicant for a license who has completed a basic course.

(c) "Basic Course Equivalency Evaluation" means an objective examination approved by the commission to be used as an instrument to verify possession of the minimum knowledge and skills as outlined by the commission in a basic course, the successful completion of which shall be mandatory for any applicant for a license who has not attended a POST basic course.

(d) "License" means a license issued by the commission to a peace officer who has met all the requirements set forth in this chapter and by the commission.

(e) "Peace Officer" means all peace officers in Chapter 4.5 (from Section 830.1 through 830.4) (commencing with Section 830) of Title 3 of Part 2 of the Penal Code; however, nothing in this chapter shall be applied to any peace officer who is elected to

his/her position, or members of the California National Guard as defined in Section 830.2 (c) of the Penal Code.

- (f) "Employing agency" means a unit of government or a private agency authorized to employ peace officers.

Article 2. Commission on Peace Officer Standards  
and Training

P.C. 13527. The commission, consistent with the terms and provisions of this chapter, shall have the following powers and duties:

- (a) To establish and amend standards and procedures for the licensing of peace officer personnel.
- (b) To adopt and amend appropriate rules and regulations to carry out the provisions of this chapter.
- (c) To develop or supervise the development of, and to administer, objective examinations to measure subject matter knowledge and equivalent training of applicants for a peace officer license.
- (d) To prevent unqualified persons from becoming licensed peace officers.

Article 3. Licensing

P.C. 13528 (a) The commission may issue licenses to all peace officers as defined in this chapter first employed prior to January 1, 1984, who meet the requirements established by the commission.

(b) The commission shall grant licenses to all peace officers as defined in this chapter, first employed after December 31, 1983, who meet the requirements established by this chapter and the commission.

(c) After December 31, 1983, the commission shall grant a license to any applicant whose employing agency certifies that:

(1) The applicant has passed a thorough background investigation conducted in accord with the regulations of the commission.

(2) The applicant has been examined by a licensed physician and has been determined to meet the requirements of the commission.

(3) The applicant has been fingerprinted and a search has been conducted of local, state, and national fingerprint files to disclose any criminal record.

(4) The applicant shall be employed by an employing agency authorized by law to employ peace officers.



(5) The applicant has completed a POST basic course, passed a subject matter examination prepared by, or under the direction of, the commission; or the applicant has passed a Basic Course Equivalency evaluation.

(6) The applicant has met all other requirements of the employing agency.

(7) The applicant has been endorsed by the employing agency.

(8) The applicant has met all minimum selection standards established by law and the commission.

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P.C. 13529 (a) Any person who has acquired equivalent training may take a basic course equivalency examination required by this chapter. The commission shall charge fees to defray the administrative costs of processing the examination for these persons, provided the fees do not exceed the cost of preparing and administering the test.

(b) The commission may charge fees to defray the administrative costs for maintaining a licensing program providing the fees do not exceed the cost of actually administering this program.

(c) An employing agency is authorized to issue a temporary license to any person who has met all the requirements described in the

P.C. 13528 (a) m.

chapter. Such temporary license shall be on a form furnished by the commission and shall expire 90 days after issuance, or when a permanent license is issued or denied by the commission, whichever is sooner.

- (d) The license shall remain the property of the commission until the applicant has successfully completed a probationary period of at least one year. Upon the successful completion of the probationary period the license shall become the property of the licensee and shall be valid until revoked.

P.C. 13530      The commission shall deny a license to any applicant who:

- (a) Lacks the qualifications which are prescribed by law, or as prescribed by the regulations adopted by the commission.
- (b) If physically or mentally so disabled as to be rendered unfit to perform the duties authorized by the license for which such person applies.
- (c) Is dependent upon the use of controlled substances as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.
- (d) Has intentionally practiced or attempted to practice any material deception or fraud in such person's application for a certificate.

(e) Fails or refuses to furnish a completed background investigation questionnaire.

(f) Has entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a crime classified by statute as a felony at the time the commission considers the application, or if a crime committed in another state or federal jurisdiction, which if committed in this state could be classified as a felony, or a crime involving moral turpitude arising out of, or in connection with, or related to the activities of such person in such a manner as to demonstrate unfitness to acquire or hold a peace officer license, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following such conviction, suspending the imposition of sentence, or of a subsequent order under the provision of Section 1203.4 allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the plea or verdict of guilty, or dismissing the accusation or information.

(g) Has been determined to be a mentally disordered sexual offender under the provisions of Article I (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code or under similar provisions of law of any other state.

Training  
7 Minutes

in  
angeles.

(h) Has been convicted of any sex offense as defined in Section 44010 or 87011 of the Education Code.

(i) Who is not employed as a peace officer at the time the license is considered.

P.C. 13531 Any peace officer re-employed after a break in service of more than three years must requalify by taking a subject matter examination and any indicated remedial training, regardless of whether or not such peace officer possesses a license.

(a) The commission is authorized to secure information, records, reports, and other data relative to the identification or fitness of any applicant for a license from any local agency or agency or department of the state and for such purpose, any provision of law to the contrary notwithstanding:

(b) The Department of Justice shall furnish, upon application of the commission, all information pertaining to any applicant of whom there is a record in its office.

(c) The Department of Health shall furnish, upon application of the commission and with the consent of the license holder or applicant, all information and records pertaining to that person of whom there is a record in its office.

44010

(d) The commission, upon written request of any agency employing peace officers, shall release to that agency information and other data relative to the identification or fitness of any applicant for a peace officer position in the requesting agency, so long as such release by the commission is not prohibited by any other provision of law.

(e) Whenever satisfactory proof is presented to the commission by any person to whom the commission has granted a license, that the license issued has been lost, stolen, or destroyed, the commission shall issue a duplicate of the license lost, stolen, or destroyed.

(f) The commission, upon request, may make such inquiries as may be necessary and may examine the files and records of any agency employing peace officers described in this chapter.

P.C. 13533      The commission shall revoke the license of any peace officer described in this chapter whom the commission determines:

(a) Has committed any act which, if committed by an applicant, would be grounds for refusal to grant a license.

(b) Has aided or abetted any person in the violation of any provision of this chapter.

(c) Has violated any provision of this chapter.

(d) Has failed to comply with any minimum training standards or ongoing training requirements established by the commission.

#### Article 4. Misdemeanor and Penalties

P.C. 13534      Any person who knowingly commits any of the following is guilty of a misdemeanor, and for each offense is punishable by a fine of not more than one thousand dollars (\$1,000) or imprisonment in the county jail not to exceed one year, or by both fine and imprisonment:

(a) Who practices or offers to practice as a peace officer in this state without being licensed as required by this chapter.

(b) Who presents or attempts to present as the person's own the license of another.

(c) Who permits another to use his or her license.

(d) Who knowingly gives false evidence of any material kind to the commission, or to any member thereof, including the staff, in obtaining a license.

(e) Who impersonates a licensed peace officer.

Commission  
Commission

The

- (f) Who uses, or attempts to use, a revoked license.
- (g) Who uses the title of "licensed peace officer" without being licensed as required by this chapter.
- (h) Who knowingly employs or causes to be employed, as a peace officer subject to the provisions of this chapter, a person who is not a licensed peace officer.
- (i) Who refuses, or fails, to return a license revoked under the provisions of this chapter.
- (j) Who violates any of the provisions of this chapter.

and Training  
Meeting Minutes

7 a.m. in  
Los Angeles.

#### Article 5. Report of Employments and Terminations

P.C. 13535 (a) Any department or agency employing peace officers required to be licensed under this chapter, shall report to the commission within 30 days of such employment the name of any officer who is newly employed by that agency, or whose employment terminates, after the effective date of this chapter, upon a form provided by the commission.

- (b) Nothing in this chapter shall be construed to prevent the establishment by local agencies of personnel standards higher than those established under this chapter nor to prevent the local administering of disciplinary action, including dismissal.



If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be effect without the invalid provision or application, and to this end the provisions of this act are severable.

9447/29

Commission on Peace Officer Standards and Training  
Commission Legislative Review Committee Meeting Minutes  
December 15, 1981

The Commission Legislative Review Committee convened at 10:30 a.m. in Conference Room 8 of the Hyatt Hotel, 6225 W. Century Blvd., Los Angeles.  
Present were:

Robert Edmonds, Committee Chairman  
William Kolender, Commissioner  
Richard Pacileo, Commissioner  
Nathaniel Trives, Commissioner  
Norman C. Boehm, Executive Director  
Don Beauchamp, Assistant to Executive Director

Bill Status Report

The Committee review of active bills on which the Commission has previously acted was dispensed with. Committee members are familiar with the bills and no further discussion was deemed necessary until after the Legislature reconvenes in January.

Peace Officer Licensing

After a discussion on the issue of licensing peace officers, the Committee makes the following recommendation.

- The Commission continues to support the concept of peace officer licensing, however, modify the action taken at the July 16, 1981 Commission meeting (see Attachment "A") to the following:
  1. POST be identified as the control agency.
  2. Require all peace officers to be licensed.
  3. Require completion of a certified POST basic course and/or passage of an appropriate waiver examination as a requisite to licensing.
  4. Ensure that the "proficiency test" and the "basic course waiver examination" are separately maintained.
  5. Require that the "license" and the current POST certificate program be separately maintained.
  6. Set January 1, 1984 as the implementation date to be included in any legislation.
  7. Ensure that licensing does not immunize the holder from any locally imposed discipline.

8. Ensure that the POST reimbursement program is not expanded to include new groups, unless additional revenues are allocated sufficient to cover the added costs.
9. Require that there be minimum selection standards.
10. Require that there be minimum training standards, to include a training maintenance program.
11. Require that a license revocation process be included.
12. Require that a fee structure be devised to cover all administrative costs associated with licensing.
13. Require that a criminal penalty clause be a part of any legislation, to ensure sanctions are available for misuse of the license.
14. Require that there be employment, status and termination reporting to allow for accurate record keeping.
15. Provide for a temporary license program to ensure agencies can immediately utilize newly appointed peace officers who have met all of the requirements.

Should the Commission act to reaffirm its support of licensing and choose to move ahead in developing appropriate legislation, the Committee recommends that an appropriate ad-hoc group of POST Commissioners be appointed to assure that the Commission's concerns and positions are reflected in the draft of any actual legislation. This ad-hoc group would assist in legislation formulation and then participate in several meetings to be held throughout the State for the purpose of assessing field sentiment regarding licensing. The final act of the ad-hoc group would be to provide input to the Commission's Legislative Review Committee which in turn would recommend whether to support, oppose or stay neutral on the legislation which may be introduced. A special meeting of the full Commission to receive the report may be necessary.

#### Proposed Legislation

The Committee considered the issue of amending Section 832.4 of the Penal Code to allow up to 24 months in which to obtain the POST certificate. Current law requires the certificate within 18 months. After a brief discussion, it was decided to recommend that POST support legislation to allow for the increase to 24 months.

There being no further issues to discuss, the meeting adjourned at 1:00 p.m.

Attachment

## COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

7100 BOWLING DRIVE, SUITE 250  
SACRAMENTO, CALIFORNIA 95823July 16, 1981  
Bahia Hotel, San Diego

## COMMISSION MEETING MINUTES

The meeting was called to order at 10 a.m. by Chairman Trives. A calling of the roll indicated a quorum was present.

## Commissioners Present:

Nathaniel Trives	- Chairman
Jay Rodriguez	- Vice-Chairman
Robert Edmonds	- Commissioner
Jacob Jackson	- Commissioner
William Kolender	- Commissioner
Richard Pacileo	- Commissioner
Joseph Trejo	- Commissioner
John Van de Kamp	- Commissioner
Robert Vernon	- Commissioner
Joe Williams	- Commissioner
Rod Blonien	- Attorney General Representative

## Commissioner Absent:

Al Angele

## Staff Present:

Norman Boehm	- Executive Director
Glen Fine	- Deputy Executive Director
Don Beauchamp	- Assistant to the Executive Director
Ron Allen	- Bureau Chief, Field Services
John Davidson	- Bureau Chief, Administrative Services
Bradley Koch	- Bureau Chief, Information Services
John Kohls	- Research Specialist
Gary Kuwabara	- Staff Services Manager
Ted Morton	- Bureau Chief, Training Program Services
Bobby Richardson	- Bureau Chief, Training Delivery Services
Hal Snow	- Senior Project Coordinator
George Williams	- Bureau Chief, Management Counseling
Brooks Wilson	- Senior Project Coordinator
Imogene Kauffman	- Executive Secretary
Rachel Fuentes	- Secretary

*Increased Executive Training - cont.*

establishing a "police college" for supervisory, management, and executive education and training.

MOTION - Van de Kamp, second - Jackson, carried unanimously that part of the study should include the feasibility of POST's having sites for police training in both Northern and Southern California, or at least find some area in Southern California that would be the center for training delivery services.

F. TASK FORCE on LICENSING/ENHANCED CERTIFICATION

The stated purpose of this task force is to develop legislation or PAM changes directed to the licensing of police officers, or PAM changes which would upgrade the Basic Certificate to license status. Increased training and minimum selection standards are to be considered as part of the legislation or regulation changes.

MOTION - Vernon, second - Kolender, carried unanimously to support legislation which would upgrade the Basic Certificate to license status and would expand the requirements and condition for revocation, with the following modifications added to the proposed legislation:

1. Reword the definition of "peace officer" to include only those peace officer categories currently in the regular program.
2. Reword proposed P.C. Section 13527, para. 3(c) to require completion of the Basic Course and passing a subject matter examination.
3. Reword proposed P.C. 13527, para. H to distinguish between subject matter examinations which would be administered to academy graduates, and equivalency examinations which would be administered as part of the equivalent training evaluation process. This would require a modification of the proposed definitions of subject matter examination and the addition of a definition of equivalency examination.
4. To move the proposed effective date of December 31, 1981, back to January 1, 1984, to provide time to make necessary preparations.
5. Add a requirement for a POST-approved field training program.
6. Specifically spell out in the legislation that a certificate does not immunize the holder from justified dismissal or local discipline.

G. TASK FORCE on NEW ORGANIZATIONAL CONCEPTS

The stated purpose of this task force is to develop position papers and strategies for implementing consolidation, regionalization, more efficient

- To: ☐ Executive Director  
☐ Deputy Director  
☐ Asst. to Executive Director  
☐ Information Services  
☒ Standards/Evaluation Services  
☐ Administrative Services  
☐ Management Counseling Services  
☐ Training Program Services  
☐ Field Services  
☐ Training Delivery Services  
☐ Others:

From: Wilson

Date: 10-10-81

- ☒ Information  
☐ Comment and Return  
☐ Other:

*licensing  
file*

ON LICENSING

OF PROPOSED LICENSING LEGISLATION

ave agreed on nearly all elements of the  
een proposed by the Task Force and  
nly major area of disagreement is on the  
sed in the proposed legislation -- who  
w? CPOA has not officially taken a  
ives on the Professionalization Coordinating  
force recommendation -- universal coverage.

Two factions are apparently looking toward

a narrower and clearer definition of

The universal license group maintains that

invited to participate in licensing, those

who really did not need peace officer powers and the concomitant training  
would opt out and the net result would be fewer and a more homogenous  
blend of peace officer types.

Those favoring the exclusive coverage argue that by directing it toward  
the categories who obviously required a full range of peace officer powers,  
and requiring the other groups to legislate themselves in, the same  
situation would emerge.

Arguments for exclusive coverage are:

1. Imposing training (and testing) requirements so far beyond the normal  
job requirements is difficult to defend legally or rationally -  
particularly in view of the current bleak economic outlook.

## TASK FORCE ON LICENSING

### DISCUSSION SHEET -- COVERAGE OF PROPOSED LICENSING LEGISLATION

The Commission on POST and PORAC have agreed on nearly all elements of the proposed licensing law which has been proposed by the Task Force and modified by the Commission. The only major area of disagreement is on the definition of a peace officer as used in the proposed legislation -- who is to be covered by the license law? CPOA has not officially taken a position although CPOA representatives on the Professionalization Coordinating Committee have supported the task force recommendation -- universal coverage.

In disagreement on coverage, the two factions are apparently looking toward different means to the same end -- a narrower and clearer definition of a peace officer than now exists. The universal license group maintains that even though all categories were invited to participate in licensing, those who really did not need peace officer powers and the concomitant training would opt out and the net result would be fewer and a more homogenous blend of peace officer types.

Those favoring the exclusive coverage argue that by directing it toward the categories who obviously required a full range of peace officer powers, and requiring the other groups to legislate themselves in, the same situation would emerge.

Arguments for exclusive coverage are:

1. Imposing training (and testing) requirements so far beyond the normal job requirements is difficult to defend legally or rationally - particularly in view of the current bleak economic outlook.



2. Universal inclusion would substantially jeopardize passage of the legislation.
3. Training standards for the other groups are currently being studied pursuant to ACR 52, and licensing/certification legislation for them would be premature at this time.

Arguments for universal coverage include:

1. The stringent requirements of certification would eliminate many categories who probably do not need peace officer powers and hence would serve to resolve the issue of "definition of a peace officer".
2. Although it can be argued that the basic training requirement of the proposed legislation would impose non-job-related training on the specialized peace officers, the majority of them are already complying - voluntarily. There are less than 8,000 peace officers from 18 agency types who are not currently complying, and most of them could operate without peace officer powers and would probably choose not to be certified.
3. Certification of all peace officers under one set of standards would upgrade standards of all and would facilitate lateral movement - not only between agencies but between categories.
4. Although operating in a specialized area, the exercising of peace officer powers and using a deadly weapon places one in a potentially life-threatening or otherwise sensitive situation and justifies training to prepare them for these situations. An analogy may be made here with the broad training/education required of an M.D. who then specializes in a very restricted area.

Questions and Answers

- Q. What about cost to the POTF?
- A. The proposed licensing legislation does not include reimbursement provisions. Administrative costs would be negligible.
- Q. How could peace officer groups be deleted from peace officer definition?
- A. It would be automatic. By definition, they would not be defined as a peace officer and have a full range of peace officer powers

unless they satisfied all requirements of licensing - including basic training. Administrators would be forced to decide how many, if any, peace officers they needed to perform their function. Due to the grandfathering clause, the metamorphosis to a non-peace officer organization or to a reduced cadre of peace officer organizations would be gradual.

Q. What about groups who really don't need a full range of peace officer powers but do need one - or a few?

A. These situations could be handled legislatively - new laws authorizing them to specifically perform these functions - either through a new "limited peace officer" class or without any reference to peace officer characteristics.

Q. How about the theory that by including everyone, the bill would be jeopardized?

A. We don't know for sure. Certainly, it's a negotiable item. Maybe the attrition we talked about would begin to occur as it goes through the legislative process. Some employee organizations have indicated they would rather be included now rather than waiting and having to fight the battle of being added later.

These are a few of the issues and questions. You may think of others. The Task Force feels that the arguments for universal inclusion outweigh those against. We feel that licensing legislation would be most likely to succeed and would do more for professionalization if introduced accordingly.

# COMPARISON OF LICENSING PROPOSALS

Feature

Task Force

Legislative Proposals

Certificate Status (Independent or Integrated)  
Affected Peace Officers

As Issued

Beauchamp

Beauchamp

This is not Beauchamp's version, but rather an amalgamation of the task forces' opinion and compromises which may be we both could live with

Selection Standards

Specific Basic Training Requirement

Test Requirement

Test Waiver Section

Employment Requirement

POST Reimbursement Provision

Fee Provision

Certificate Replacement Provision

Title Provision

Requalification Requirements

1. On re-employment

2. Maintenance

Ethical Conduct Section

Revocation Provision

Suspension Provision

Investigation Responsibility

Temporary Certificate Clause

Penalty Section

Employment/Termination Reporting

Funding Source

All Peace officers except elected members, Natl. Guard and reserves Existing Law

No Yes

Yes Yes

No Yes

Implied No

Implied No

None except equiv. Yes

No Yes

No Yes

No, except after 3 Yrs. No

No No

No No

Yes Yes

No Yes

Attorney General Post

No Yes

Yes Yes

Yes Yes

None Provided

Post

Independent Sheriff, police and police Dist. (reg. emp.) Existing Law

Yes

No

N/A

Yes

No

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Independent All peace officers (reg. employed) Existing Law

No

Yes

Yes

Yes

No

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Beauchamp This is not Beauchamp's version, but rather an amalgamation of the task forces' opinion and compromises which may be we both could live with

No

Yes

Yes

Yes

No

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

\*License "inactive" when unemployed as peace officer

0466B

PERSON

## ARTICLE 4 PEACE OFFICER CERTIFICATION

### Legislative Findings and Definitions

#### Section 1

13527. The Legislature finds and declares that:

- (a) The occupation of peace officer is a profession requiring adherence to high standards of selection, training, and ethical conduct; and
- (b) The technical competence of persons serving in this profession is a matter of the highest significance to health, welfare, and safety of the people of this state; and
- (c) The establishment and maintenance of high professional and technical standards is best accomplished by the certification and registration of persons who serve as certain peace officers.

13529. As used in this chapter:

- (a) "Peace Officer" means any sheriff, undersheriff, deputy sheriff of a county, any police officer of a city, or any police officer of a district authorized by statute to maintain a police department, provided that such person is regularly employed and paid in such capacity.

- (b) "Certificate" means the registered peace officer certificate issued by the commission to a person employed as a peace officer as defined in this chapter. The certificate shall be approximately 2¼" x 3¼" in size.
- (c) "Examination" means an examination which verifies possession of knowledge and skills, which are prescribed by the commission in its basic training course.
- (d) Conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere to a felony charge, or to a crime charged in another state which if charged in this state could be classified as a felony, or to any other charge substantially related to the qualifications, functions and duties of a registered peace officer. Any action which the commission is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4.

13531. The commission, consistent with the provisions of this chapter, shall have all of the following powers:

- (a) To establish and amend standards, regulations, and procedures for the issuance, denial, suspension or revocation of peace officer certificates.
- (b) To establish and charge fees for the issuance, reissuance and replacement of registered peace officer certificates.
- (c) To develop or supervise the development of, and to administer, written and practical examinations to measure knowledge and skills prescribed by the commission in its basic training course.
- (d) To establish and charge a fee of any person who takes an examination; the fee shall not exceed the amount necessary to reimburse the commission for the cost of administering and maintaining the examinations.

#### Certification

13533. The commission shall, upon application, issue a peace officer certificate to each qualified person as determined by the commission, who is currently employed as a peace officer as defined in this chapter, who was first employed as such prior to January 1, 1984.

13535. The commission shall, upon application, issue a peace officer certificate to each qualified person, employed as a peace officer as defined in this chapter, who is first employed as such on or after January 1, 1984.

- (a) The applicant is a full-time regularly employed peace officer as defined in this chapter; and
- (b) The applicant has satisfactorily completed a basic course of training certified by the commission or has passed the examination prescribed by the commission; and
- (c) The applicant has met all requirements for employment as a peace officer prescribed by law or by the commission and any other requirements of the employing agency; and
- (d) The applicant's certification as a registered peace officer is recommended by the department head of the employing agency.

13537. No person shall exercise the powers of a peace officer as defined in this chapter unless the person is regularly employed and paid as such and has in his or her possession the registered peace officer certificate, or except as otherwise provided by the commission.



13539. Any person who is under consideration for hire and has acquired basic training that is equivalent to or exceeds the commission's minimum basic training standard, may subject to procedural guidelines established by the commission, take the examinations prescribed by the commission.

13543. The commission may revoke a certificate, or deny any application for a certificate, or not renew a certificate for any person who:

- (a) Is not regularly employed and paid as a peace officer who is subject to the provisions of this chapter; or
- (b) Lacks the qualifications which are prescribed by law, or as prescribed by the regulations adopted by the commission; or
- (c) Is physically or mentally so disabled, as determined by the commission, as to be rendered unfit to assume and discharge the responsibilities of a peace officer; or
- (d) Is dependent upon the use of controlled substances as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code; or
- (e) Used fraud or deception in applying for the certificate or in passing the examination provided for in this chapter.

13545. Registered peace officer certificate:

The registered peace officer certificate regularly and validly issued by the commission entitles the holder thereof to use the title of registered peace officer and to use the letters R.P.O. in connection with his or her name.

13547. Any person who previously was employed as peace officer, then leaves such employment and is re-employed as a peace officer must requalify as provided by Section 13535.

13559. Every applicant for a peace officer certificate or for the renewal of a peace officer certificate shall be deemed to have given his or her consent for the securing of, and disclosure of, information to the commission for the purpose of ascertaining the fitness for certification and true identity of the applicant; and for such purposes the commission is authorized to make such inquiries as may be necessary to secure and examine information, records, reports, and other data from any agency or department of the state or any political subdivision of the state, whether chartered by the state or not, any provision of law to the contrary notwithstanding.

(a) The Department of Justice shall without charge furnish, upon request from the commission or its authorized representative all information and records pertaining to any certificate holder or applicant of whom there is a record in its office.

- person
- (b) The Department of Health shall without charge furnish, upon request from the commission or its authorized representative, all information and records pertaining to any certificate holder or applicant of whom there is a record in its office.
  - (c) The commission upon written request of any agency employing peace officers defined in this chapter shall release to that agency information and other data relative to the identification or fitness as registered peace officer, or any applicant for a peace officer position in that agency, so long as the release of such information is not otherwise prohibited by any other provision of law.

13551. Each applicant for a peace officer certificate shall contain notice that the information provided by the applicant and submitted to the commission is subject to investigation for, and verification of, the applicant's fitness for certification and true identity by means of review of information, records, reports, and other data from any agency or department of the state or any political subdivision of the state, whether chartered by the state or not.

13553. Review and reconsideration of action on application:

The action of the commission upon the acceptance and rejection of applicants and the grading of examinations is final and

not subject to review. Every applicant whose application for a certificate has been rejected or who has failed to pass the examination may apply to the commission for a reconsideration of its action. The application for reconsideration shall be filed with the commission within 30 days after notice of the rejection or failure was received by the applicant and only one application for reconsideration may be filed upon any one application for a certificate or upon any one application for an examination.

13557. Certificates valid until revoked:

Except as provided in Sections 13559, and subdivision (a) registered peace officer certificates regularly issued are valid until revoked, suspended, or expired as provided by law.

(a) A certificate issued under either of the following circumstances is void and shall be deemed to be void from the date it was issued:

(1) A certificate which would not have been issued but for a material deception or fraud committed by an applicant or by another in the applicant's behalf; or

(2) A certificate which the commission had no lawful authority to issue and which would not have been issued for some material mistake of law or fact by either or both the applicant and the commission.

(b) A notice that a certificate is void pursuant to paragraph (1) or (2) of subdivision (a) shall be served upon the certificate holder at his or her last known address as provided in Section 1013 of the Code of Civil Procedure. Within 30 days thereafter, such notice may be appealed to the commission only on the grounds that there was no fraud, material deception, or error and that the commission had the lawful authority to issue the certificate on the facts stated in this application.

13559. Unlawful or unprofessional conduct or disobedience, as grounds for revocation or suspension of certificate; powers of the commission:

The commission may suspend or revoke the peace officer certificate of any peace officer described in this chapter whom the commission determines following conviction by a court of law or upon final adjudication by administrative procedures that the person has:

(a) Demonstrated gross negligence or evident unfitness in the

discharge of the responsibilities of a peace officer; or

- (b) Intentionally under the color of office, subjected another person to mistreatment or to unlawful arrest, detention, search or seizure, or denial of a lawful right; or
- (c) Demonstrated persistent defiance of, and refusal to obey the laws and rules regulating the duties of persons serving as peace officers; or
- (d) Willfully communicated confidential information without lawful authorization; or
- (e) Committed any specified act which, if committed by an applicant, would be grounds for refusal to issue a certificate; or
- (f) Violated any provision of this chapter; or
- (g) Aided or abetted any person in the violation of any provision of this chapter; or
- (h) Violated any rule of professional conduct promulgated by the commission.

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A notice that a certificate is suspended or revoked shall be served upon the certificate holder at his or her last known address as provided in Section 1013 of the Code of Civil Procedure. Within 30 days thereafter, such notice may be appealed to the commission only on the grounds that there was no conviction by a court of law or by administrative procedure and that the commission had no lawful authority to suspend or revoke the certificate on the facts stated.

The proceedings for the suspension or revocation of certificates under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commission shall have all the powers granted therein.

13561. Whenever the holder of any certificate issued by the commission requests in writing that his or her certificate be revoked, the commission shall revoke such certificate.

13563. Replacement of and proof of lost or destroyed certificate:

Whenever satisfactory proof is presented to the commission by any person to whom the commission has granted a currently valid certificate, that the certificate issued has been lost, stolen or destroyed, the commission shall, subject to the payment of the appropriate fee, replace the certificate.

Satisfactory proof of loss or destruction of a certificate



shall consist of an affidavit by the person, giving the date of issue, together with such other information as the commission may require.

13565. Each certificate issued pursuant to this article shall be renewable quinquennially and each currently registered and qualified peace officer for whom a certificate has been issued shall apply for renewal of the certificate and pay the quinquennial renewal fee every five years on or before the last day of the month following the month in which his or her birthday occurs, beginning with the fifth birthday following the date on which the certificate was issued, whereupon the commission shall renew the certificate.

13567. Temporary certificates:

The commission may issue temporary certificates for the purpose of authorizing service as peace officers by persons under the following conditions:

- (a) The applicant for a temporary certificate shall state under oath that he or she has duly filed an application for a certificate together with the required fee and that to the best of the person's knowledge no reason exists why the person should not be issued a certificate. Such temporary certificate shall be valid for not more than 60 calendar days and only until the certificate originally requested is either issued or denied by the commission.

- (b) The applicant for a temporary certificate states in writing, under oath, that he or she is employed as a peace officer, as defined in this chapter, and has met all of the requirements for the issuance of the peace officer certificate except for the satisfactory completion of basic training. While participating as a trainee in a supervised field training program approved by the commission such person may exercise the powers of a peace officer. Such temporary certificate shall be valid for not more than 180 calendar days.

#### Misdemeanor and Penalties

13569. Any person who knowingly commits any of the following acts is guilty of a misdemeanor, and for each offense is punishable by a fine of not more than one thousand dollars (\$1,000) or imprisonment in the county jail not to exceed one year, or by both fine and imprisonment:

- (a) Performs or offers to perform or exercise the powers of a peace officer without being certificated as required by this chapter; or
- (b) Presents or attempts to present as the person's own the certificate of another; or
- (c) Permits knowingly his or her certificate to be used unlawfully by another person; or

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- 981
- (d) Knowingly gives false evidence to the commission, or to any authorized representative of the commission, in obtaining or renewing a certificate; or
  - (e) Impersonates a registered peace officer; or
  - (f) Uses, or attempts to use, a void, suspended, forged, or revoked certificate; or
  - (g) Uses the title of "registered peace officer" without being certificated as required by this chapter; or
  - (h) Knowingly employs or causes to be employed, as a peace officer subject to the provisions of this chapter, a person who is not a currently registered peace officer; or
  - (i) Violates any of the provisions of this chapter.

#### Report of Employment and Termination

13571. Any agency employing a peace officer required to be certificated as provided in this chapter, shall report to the commission, on a form approved by the commission, immediately the name and any other information prescribed by the commission pertaining to any person who is newly employed as a peace officer by that agency, or whose employment as a peace officer is suspended or terminates, upon a form approved by the commission.

13573. Nothing in this chapter shall be construed to prevent the establishment by local agencies of personnel standards higher than those established under this chapter.

13575. Notwithstanding any other provision of this chapter any person who has not been issued the certificate by the commission, may only exercise the powers of a peace officer as prescribed by the commission

## Section 2

An appropriation of (to be determined) from the Peace Officer Training Fund is made for carrying out the provisions of this act.

If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

## Section 3

Repeal:

§832.4 Basic Certificate

§13510.1 Certification

§13511(b) Testing

## Memorandum

: Commission

Date : June 30, 1981

*Nat Trivis*

Long Range Planning Committee, Nat Trivis, Chairman  
From : Commission on Peace Officer Standards and Training

Subject: TASK FORCE ON LICENSING/ENHANCED CERTIFICATION

The stated purpose of this task force is to develop for Commission consideration, legislation or PAM change directed to the licensing of police officers, or PAM change which would upgrade the Basic Certificate to license status. Increased training and minimum selection standards to be considered as part of the legislation or regulations change.

The Professionalization Coordinating Committee has submitted recommendations from several of the Symposium follow-up task forces for review by POST, CPOA, and PORAC. The Commission has directed the Long Range Planning Committee to review them and to recommend Commission action.

The Long Range Planning Committee met on June 19 for that purpose and with the assistance of the staff review is recommending the following action on the Task Force recommendations:

✓ Recommendation

Support legislation which would upgrade the Basic Certificate to license status and would expand the requirements and condition for revocation. (Complete text of proposed legislation is included as Appendix A. Revised version is Appendix B.)

Staff has recommended the following modifications to the proposed legislation.

1. Section 13526(d): defines "peace officer" for purposes of the legislation. It would extend the certification to all categories of peace officer listed in P.C. 830.

Staff Analysis: This broad application would be too costly and could impose training requirements not related to the job of all the diverse classes.

Motion: To reword the definition to include only those peace officer categories currently in the regular program.

2. Section 13527: Paragraph 3 (c) under certification. The legislation implies but does not specifically require completion of the basic course.

Motion: To reword the paragraph to require completion of the basic course and passing a subject matter examination.

3. Section 13527: Paragraph H under certification. The legislation would require the same examination for purposes of equivalency evaluation and for academy graduates.

Staff Analysis: This requirement would be costly, cumbersome and unnecessary.

Motion: To reword the legislation to distinguish between subject matter examinations which would be administered to academy graduates, and equivalency examinations which would be administered as part of the equivalent training evaluation process. This would require a modification of the proposed definitions of subject matter examination and the addition of a definition of equivalency examination.

4. Effective date of December 31, 1981.

Staff Analysis: This date does not allow sufficient time for legislative process and implementation.

Motion: To move the effective date back to January 1, 1984 to provide time to make necessary preparations.

#### Motions For Additional Provisions

Motion: To add requirement for a POST-approved field training program.

Motion: To specifically spell out in the legislation that a certificate does not immunize the holder from justified dismissal or local discipline.

Article. Legislative Findings and Definitions

13525. The Legislature finds and declares:

- (a) That the occupation of peace officer is a profession requiring adherence to high standards of selection, education, special training, and ethical conduct.
- (b) That the technical competence of persons practicing this profession is a matter of the highest significance to the health, welfare, and safety of the citizens of this state.
- (c) That the establishment and maintenance of high professional and technical standards is best accomplished by the certification of persons who are, or seek to become, peace officers.
- (d) That the recognition of peace officers as professionals having both status and obligations beyond the temporary conditions of employment will further enhance observance of professional standards.

13526. As used in this chapter:

- (a) "Commission" means the Commission on Peace Officer Standards and Training.



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"Subject matter examination" means an objective examination approved by the commission to be used as an instrument to verify possession of minimum knowledge and skills by the Commission as outlined in its basic course, the successful completion of which shall be mandatory for any applicant for a certificate.

- (c) "Certificate" means the basic certificate issued by the commission to a peace officer who has met all the requirements set forth in this chapter and by the commission.
- (d) "Peace Officer" means all peace officers in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code; however, nothing in this chapter shall be applied to any peace officer who is elected to his/her position, members of the California national Guard as defined in Section 830.2 (c) of the Penal Code, and Reserve Auxiliary or other peace officers as defined in Section 830.6 of the Penal Code.

## Article 2. Commission on Peace Officer Standards and Training

13527. The commission, consistent with the terms and provisions of this chapter, shall have the following powers and duties:

- (a) To establish and amend standards and procedures for the certification of peace officer personnel.
- (b) To adopt and amend appropriate rules and regulations to carry out the provisions of this chapter.

... person

To develop or supervise the development of, and to administer, objective examinations to measure subject matter knowledge and equivalent training of applicants for a peace officer certificate.

- (d) To prevent unqualified persons from becoming certificated peace officers.

#### Certification

1. The Commission may issue certificates to all peace officers as defined in this chapter first employed prior to January 1, 1982, who meet the requirements established by the commission.
2. The commission shall grant certificates to all peace officers as defined in this chapter, first employed after December 31, 1981, who meet the requirements established by this chapter and the commission.
3. After December 31, 1981, the commission shall grant a certificate to any applicant whose employing agency certifies that:
  - (a) The applicant has passed a thorough background investigation conducted in accord with the regulations of the commission.
  - (b) The applicant has been examined by a licensed physician and has been determined to meet the requirements of the commission.
  - (c) The applicant has been fingerprinted and a search has been conducted of local, state, and national fingerprint files to disclose any criminal record.

The applicant shall be employed by a police or sheriff's department or department authorized by law.

(e) The applicant has passed a subject matter examination prepared by, or under the direction of, the commission.

(f) The applicant has met all other requirements of the employing agency.

(g) The applicant has been endorsed by the employing agency.

4. Any person who has acquired equivalent training may take the subject matter examination required by this chapter. The commission may charge fees to defray the administrative costs of processing the examination for these persons, provided the fees do not exceed the cost of preparing and administering the test.

5. The commission shall deny a certificate to any applicant who:

(a) Lacks the qualifications which are prescribed by law, or as prescribed by the regulations adopted by the commission.

(b) If physically or mentally so disabled as to be rendered unfit to perform the duties authorized by the certificate for which such person applies.

(c) Is dependent upon the use of controlled substances as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.

Has intentionally practiced or attempted to practice any material deception or fraud in such person's application for a certificate.

- (e) Fails or refuses to furnish a completed background investigation questionnaire.
- (f) Has entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a crime classified by statute as a felony at the time the commission considers the application, or if a crime committed in another state which if committed in this state could be classified as a felony, or a crime involving moral turpitude arising out of, or in connection with, or related to the activities of such person in such a manner as to demonstrate unfitness to acquire or hold a peace officer certificate, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following such conviction, suspending the imposition of sentence, or of a subsequent order under the provision of Section 1203.4 allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the plea or verdict of guilty, or dismissing the accusation or information.

- 6. Any peace officer re-employed after a break in service of more than three years must requalify by taking the subject matter examination and any indicated remedial training, regardless of whether or not such peace officer possesses a certificate.

13542. The commission shall deny a certificate to any applicant who comes within any of the following classes:

Has been determined to be a mentally disordered sexual offender under the provisions of Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code or under similar provisions of law of any other state.

- (b) Has been convicted of any sex offense as defined in Section 44010 or 87011 of the Education Code.
- (c) Who is not employed as a peace officer at the time the certificate is considered.

7. The commission is authorized to secure information, records, reports, and other data relative to the identification or fitness of any applicant for a certificate from any local agency or agency or department of the state and for such purpose, any provision of law to the contrary notwithstanding:

- (a) The Department of Justice shall furnish, upon application of the commission, all information pertaining to any applicant of whom there is a record in its office.
- (b) The Department of Health shall furnish, upon application of the commission and with the consent of the certificate holder or applicant, all information and records pertaining to that person of whom there is a record in its office.

The commission, upon written request of any agency employing peace officers, shall release to that agency information and other data relative to the identification or fitness of any applicant for a peace officer position in the requesting agency, so long as such release by the commission is not prohibited by any other provision of law.

never satisfactory proof is presented to the commission by any person to whom the commission has granted a certificate, that the certificate issued has been lost, stolen, or destroyed, the commission shall issue a duplicate of the certificate lost, stolen, or destroyed.

9. The commission, upon request, may make such inquiries as may be necessary and may examine the files and records of any agency employing peace officers described in this chapter.
10. The commission may revoke the certificate of any peace officer described in this chapter whom the Attorney General determines:
  - (a) Has committed any act which, if committed by an applicant, would be grounds for refusal to grant a certificate.
  - (b) Has aided or abetted any person in the violation of any provision of this chapter.
  - (c) Has violated any provision of this chapter.

#### Misdemeanor and Penalties

1. Any person who knowingly commits any of the following is guilty of a misdemeanor, and for each offense is punishable by a fine of not more than one thousand dollars (\$1,000) or imprisonment in the county jail not to exceed one year, or by both fine and imprisonment:
  - (a) Who practices or offers to practice as a peace officer in this state without being certificated as required by this chapter.

Who presents or attempts to present as the person's own the certificate of another.

- (c) Who permits another to use his or her certificate.
- (d) Who knowingly gives false evidence of any material kind to the commission, or to any member thereof, including the staff, in obtaining a certificate.
- (e) Who impersonates a certificated peace officer.
- (f) Who uses, or attempts to use, a revoked certificate.
- (g) Who uses the title of "certificated peace officer" without being certificated as required by this chapter.
- (h) Who knowingly employs or causes to be employed, as a peace officer subject to the provisions of this chapter, a person who is not a certificated peace officer.
- (i) Who refuses, or fails, to return a certificate suspended or revoked under the provisions of this chapter.
- (j) Who violates any of the provisions of this chapter.



Article 5. Report of Employments and Terminations

2. Any department or agency employing peace officers required to be certificated under this chapter, shall report to the commission within 30 days of such employment the name of any certificated officer who is newly employed by that agency, or whose employment terminates, after the effective date of this chapter, upon a form provided by the commission.
3. Nothing in this chapter shall be construed to prevent the establishment by local agencies of personnel standards higher than those established under this chapter.

If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

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Article. Legislative Findings and Definitions

13525. The Legislature finds and declares:

- (a) That the occupation of peace officer is a profession requiring adherence to high standards of selection, education, special training, and ethical conduct.
- (b) That the technical competence of persons practicing this profession is a matter of the highest significance to the health, welfare, and safety of the citizens of this state.
- (c) That the establishment and maintenance of high professional and technical standards is best accomplished by the certification of persons who are, or seek to become, peace officers.
- (d) That the recognition of peace officers as professionals having both status and obligations beyond the temporary conditions of employment will further enhance observance of professional standards.

13526. As used in this chapter:

- (a) "Commission" means the Commission on Peace Officer Standards and Training.

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- (b) "Subject matter examination" means an objective examination approved by the commission to be used as an instrument to verify possession of a sampling of the knowledge and skills as outlined by the commission in its basic course, the successful completion of which shall be mandatory for any applicant for a certificate who has completed a basic course.
- (c) "Basic Course Equivalency Evaluation means an objective examination approved by the commission to be used as an instrument to verify possession of the minimum knowledge and skills as outlined by the commission in its basic course, the successful completion of which shall be mandatory for any applicant for a certificate who has not attended a POST basic course.
- (d) "Certificate" means the basic certificate issued by the commission to a peace officer who has met all the requirements set forth in this chapter and by the commission.
- (e) "Peace Officer" means a peace officer member of a city police department, a county sheriff's department, a regional park district, a district authorized by statute to maintain a police department, the California Highway Patrol, the University of California Police, the California State University and Colleges Police, and a community college police department.

Justice

Article 2. Commission on Peace Officer Standards  
and Training

13527. The commission, consistent with the terms and provisions of this chapter, shall have the following powers and duties:

- (a) To establish and amend standards and procedures for the certification of peace officer personnel.
- (b) To adopt and amend appropriate rules and regulations to carry out the provisions of this chapter.
- (c) To develop or supervise the development of, and to administer, objective examinations to measure subject matter knowledge and equivalent training of applicants for a peace officer certificate.
- (d) To prevent unqualified persons from becoming certificated peace officers.

Certification

1. The commission may issue certificates to all peace officers as defined in this chapter first employed prior to January 1, 1984, who meet the requirements established by the commission.
2. The commission shall grant certificates to all peace officers as defined in this chapter, first employed after December 31, 1983, who meet the requirements established by this chapter and the commission.

er December 31, 1983, the commission shall grant a certificate to any applicant whose employing agency certifies that:

- (a) The applicant has passed a thorough background investigation conducted in accord with the regulations of the commission.
- (b) The applicant has been examined by a licensed physician and has been determined to meet the requirements of the commission.
- (c) The applicant has been fingerprinted and a search has been conducted of local, state, and national fingerprint files to disclose any criminal record.
- (d) The applicant shall be employed by a police or sheriff's department or department authorized by law.
- (e) The applicant has completed a POST basic course and passed a subject matter examination prepared by, or under the direction of, the commission.
- (f) The applicant has successfully completed a POST-approved field training program.
- (g) The applicant has met all other requirements of the employing agency.
- (h) The applicant has been endorsed by the employing agency.

any person who has acquired equivalent training may take the basic course equivalency examination required by this chapter. The commission may charge fees to defray the administrative costs of processing the examination for these persons, provided the fees do not exceed the cost of preparing and administering the test.

5. The commission shall deny a certificate to any applicant who:
  - (a) Lacks the qualifications which are prescribed by law, or as prescribed by the regulations adopted by the commission.
  - (b) If physically or mentally so disabled as to be rendered unfit to perform the duties authorized by the certificate for which such person applies.
  - (c) Is dependent upon the use of controlled substances as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.
  - (d) Has intentionally practiced or attempted to practice any material deception or fraud in such person's application for a certificate.
  - (e) Fails or refuses to furnish a completed background investigation questionnaire.

Has entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a crime classified by statute as a felony at the time the commission considers the application, or if a crime committed in another state which if committed in this state could be classified as a felony, or a crime involving moral turpitude arising out of, or in connection with, or related to the activities of such person in such a manner as to demonstrate unfitness to acquire or hold a peace officer certificate, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following such conviction, suspending the imposition of sentence, or of a subsequent order under the provision of Section 1203.4 allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the plea or verdict of guilty; or dismissing the accusation or information.

6. Any peace officer re-employed after a break in service of more than three years must requalify by taking the subject matter examination and any indicated remedial training, regardless of whether or not such peace officer possesses a certificate.

13542. The commission shall deny a certificate to any applicant who comes within any of the following classes:

- (a) Has been determined to be a mentally disordered sexual offender under the provisions of Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code or under similar provisions of law of any other state.



Has been convicted of any sex offense as defined in Section 44010 or 87011 of the Education Code.

- (c) Who is not employed as a peace officer at the time the certificate is considered.

Justice

7. The commission is authorized to secure information, records, reports, and other data relative to the identification or fitness of any applicant for a certificate from any local agency or agency or department of the state and for such purpose, any provision of law to the contrary notwithstanding:

- (a) The Department of Justice shall furnish, upon application of the commission, all information pertaining to any applicant of whom there is a record in its office.

- (b) The Department of Health shall furnish, upon application of the commission and with the consent of the certificate holder or applicant, all information and records pertaining to that person of whom there is a record in its office.

The commission, upon written request of any agency employing peace officers, shall release to that agency information and other data relative to the identification or fitness of any applicant for a peace officer position in the requesting agency, so long as such release by the commission is not prohibited by any other provision of law.

Whenever satisfactory proof is presented to the commission by any person to whom the commission has granted a certificate, that the certificate issued has been lost, stolen, or destroyed, the commission shall issue a duplicate of the certificate lost, stolen, or destroyed.

9. The commission, upon request, may make such inquiries as may be necessary and may examine the files and records of any agency employing peace officers described in this chapter.
10. The commission may revoke the certificate of any peace officer described in this chapter whom the Attorney General determines:
  - (a) Has committed any act which, if committed by an applicant, would be grounds for refusal to grant a certificate. .
  - (b) Has aided or abetted any person in the violation of any provision of this chapter.
  - (c) Has violated any provision of this chapter.

#### Misdemeanor and Penalties

1. Any person who knowingly commits any of the following is guilty of a misdemeanor, and for each offense is punishable by a fine of not more than one thousand dollars (\$1,000) or imprisonment in the county jail not to exceed one year, or by both fine and imprisonment:
  - (a) Who practices or offers to practice as a peace officer in this state without being certificated as required by this chapter.

who presents or attempts to present as the person's own the certificate of another.

Justice

- (c) Who permits another to use his or her certificate.
- (d) Who knowingly gives false evidence of any material kind to the commission, or to any member thereof, including the staff, in obtaining a certificate.
- (e) Who impersonates a certificated peace officer.
- (f) Who uses, or attempts to use, a revoked certificate.
- (g) Who uses the title of "certificated peace officer" without being certificated as required by this chapter.
- (h) Who knowingly employs or causes to be employed, as a peace officer subject to the provisions of this chapter, a person who is not a certificated peace officer.
- (i) Who refuses, or fails, to return a certificate suspended or revoked under the provisions of this chapter.
- (j) Who violates any of the provisions of this chapter.

Article 5. Report of Employments and Terminations

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2. Any department or agency employing peace officers required to be certificated under this chapter, shall report to the commission within 30 days of such employment the name of any certificated officer who is newly employed by that agency, or whose employment terminates, after the effective date of this chapter, upon a form provided by the commission.
  
3. Nothing in this chapter shall be construed to prevent the establishment by local agencies of personnel standards higher than those established under this chapter nor to prevent the local administering of disciplinary action, including dismissal.

If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

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State of California

Department of Justice

**Memorandum**

To : Glen E. Fine, Deputy Director  
Information Services

Date : June 5, 1981

*FWMS*  
From : George W. Williams, Bureau Chief  
**Commission on Peace Officer Standards and Training**  
Management Counseling Services

Subject: THE PEACE OFFICER LICENSING BILL

With the press of daily business and our various special projects which obviously preclude each of us being deeply involved in all major matters confronting POST, not having had the opportunity to engage in the discussions regarding police licensing, I nevertheless wish to contribute my observations and suggestions. The comments and recommendations contained herein are offered with constructive intent and that they contribute to the dialogue and the resolution of issues which are still unsettled.

Observations

The bill should be subjected to substantial rewrite (see attachment). The language of the bill is vague and overly broad.

If licensing is deemed necessary it should only apply to peace officers of sheriff and police departments. The POST basic certificate should not constitute the license.

The bill's primary accomplishment would be the establishment of alternatives for basic training which are generally rejected by law enforcement officials and trainers in California.

From the point of view of POST and employers, no laudatory objective would be attained through passage of this bill.

From the point of view of police employers and peace officers who desire the opportunity for greater employment mobility, police licensing can be perceived as desirable.

Basic Certificate as License

The licensing legislation as proposed apparently intends that the POST Basic Certificate would constitute the peace officer license. On its face this presents problems. First, there are now thousands of persons who have been

issued the Basic Certificate. Many of these people are still law enforcement practitioners, however, some of them are no longer active in law enforcement but would nevertheless be licensed to serve as peace officers. Second, it is proposed that all incumbent peace officers be issued the certificate (presumably the POST Basic Certificate). Assuming that it is not the intent of the bill that the incumbents who have been issued the Basic Certificate be issued a second certificate under the auspices of the bill, POST would be placed in a dilemma. Issue certificates, under the ex officio doctrine, to persons who for whatever reason(s) heretofore have not been issued the Basic Certificate (most likely because they have not qualified either because of not having been appropriately trained or selected) or issuing Basic Certificates under these circumstances and thus destroying the validity of the Basic Certificate and the Commission's Certification Program.

Because of the afore mentioned, and perhaps many other reasons, the "license" issued by POST should be a document different and separate from the Basic Certificate. The license should be approximately 3½" x 2½" and should be required to be carried when a person is exercising the powers of a peace officer. In addition, the license should be issued contingent upon full-time regular employment as a peace officer with a specified agency or jurisdiction; and that when off duty, upon suspension from duty or separation from such employment as a peace officer, the license is void, but that it may be reinstated or be reissued whichever is appropriate upon return to duty after such suspension or upon re-employment as a peace officer if the person is still qualified. It may be advisable that POST insist that these licenses must be renewed periodically; i.e., on the individual's birth date on the fifth year following the issuance of the license.

#### Effective Date

The bill as drafted becomes effective and operative January 1, 1982. This date should be reset to January 1, 1984, in order for POST, the employers and the concerned officers to comply with the provisions of the law.

#### Timing for Obtaining License

The bill as drafted provides that in order to exercise the powers of a peace officer a person must have been issued the license. However, the proponents say that the license (i.e., the POST Certificate) would be "Required 18 months after employment (832.4 PC)". This obviously is an anomalous situation which is brought about through the use of the Basic Certificate as the license. One of the requirements for qualification for the Basic Certificate is that the applicant has completed a year of satisfactory service as a peace officer. As expressed elsewhere in this report, the license should not take the form of the Basic Certificate. If this issue were resolved, the time period within which the license would have to be acquired could be essentially determined on its own merits. If it is determined that the POST Basic

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Certificate is to continue to be issued and is to be independent of licensing, then an additional section of law should be included in the bill to mandate the licensing certificate. It must be understood that there are a variety of circumstances that must be considered relative to this issue. First of all, and perhaps rightly, the bill requires the person to have the license in order to exercise the powers of a peace officer but this does not take into account §832.3 which provides that no person can exercise peace officer powers until the person has completed basic training or as otherwise excepted by this law. The Commission in defining the exception has included the extension of peace officer authority to the outset of employment as a peace officer; i.e., while a person is involved in a field training officer program approved by the Commission, preliminary to assignment to attendance of basic training. Rather than attempt to cope with all such and perhaps other nuances by statute, a statute worded as follows should be enacted which authorizes the Commission to prescribe appropriate procedures for how and when etc., the license must be obtained. It would be very appropriate that the Commission issue temporary licenses, which authorize peace officer authority under prescribed circumstances, to persons employed as peace officers immediately upon notification of such employment.

Section \_\_\_\_\_. Peace officers employed after \_\_\_\_\_ required to have certificate  
Any person defined as a peace officer in § 13526(d) who is first employed after \_\_\_\_\_ shall obtain the certificate as prescribed by the Commission on Peace Officer Standards and Training in order to exercise the powers of a peace officer. The Commission shall have the authority to adopt procedures and standards for the issuance of such certificates.

It might be appropriate to repeal § 832.4 and substitute the above language.

When § 832.4 was enacted, in the minds of a number of people the POST Basic Certificate was thus made a defacto license for the affected peace officers. § 832.4, if the proposed licensing bill is enacted, can be deemed to have served its purpose and would no longer be needed with regard to the POST Basic Certificate - if the latter is not to constitute the license.

#### Reimbursement

It is not clear, within the design of the proposed bill, how it can be contended that the bill "extends reimbursement to all full-time peace officers". The determination of eligibility under the existing design of law primarily depends upon § 13510. This law says that the Commission shall adopt selection and training standards for the identified peace officer classes, which standards shall apply to the employers of such peace officers while they are receiving state aid from POST. The provision of state aid and the conditions of



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entitlement together with other existing provisions of § 13510 are proposed to be deleted.

Two versions of the bill have been circulated. In the first draft, amendment of Section 13510 was proposed as follows, but was not included in the most recently circulated version.

Penal Code 13510.

- a) For the purpose of raising the level of competence of local law enforcement officers, the Commission shall adopt, and may, from time to time amend, rules establishing minimum standards relating to physical, mental, and moral fitness, which shall govern the recruitment of peace officers as defined in Section 13526(d) of this code, and shall adopt, and may, from time to time amend, rules establishing minimum standards for training which shall apply to peace officers as defined in Section 13526(d) of this code.

All that is left is that the Commission must adopt minimum selection/training standards. Thus, it can only be conclude that the bill would leave the issue of eligibility for reimbursement not clearly resolved. § 13523 limits reimbursement to "eligible agencies", therefore, there must be some legislative statement in the bill as to eligibility.

Extension of eligibility for reimbursement for the training expenses to most peace officer classes should be thoroughly analyzed. Presently the POST Reimbursement Program is well rounded; it provides financial assistance to eligible jurisdictions and agencies for basic training and for a very comprehensive variety of training necessary for specified law enforcement employees throughout their careers. If the bill is successful unless substantial additional revenue is provided to POST, drastic changes must be anticipated regarding reimbursement. It must also be expected that POST's administrative budget would have to be substantially increased to deal with the new operational and legal programs, and the expansion of existing programs; i.e., subject matter testing, licensing, as well as training development delivery, and

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compliance inspections. Recognizing contemporary financial conditions, on both the state and local levels, such additional necessary financial support being provided for the POST Program, is unlikely. Nor is it likely that the current reimbursement recipients will preceive favorably the substantial reduction or elimination of financial aid from POST.

Supporters of the bill may contend that increased costs to the POST Program would be negligible if preservice training were required and/or facilitated by POST withdrawing the provision of reimbursement to (the majority) local law enforcement agencies that provide their newly hired peace officers basic training after employment.

#### Preservice Training

The concept of preservice training is a profound issue. Some aspects of this matter that immediately come to mind are: (1) Recruitment - attracting sufficient numbers of persons so as to provide the necessary volume of qualified candidates would only be exasperated. It would very likely take many years to establish a pattern in the education process that would result in the development of sufficient volume. This approach in itself would provide a large number of very youthful and perhaps immature and naive candidates. (2) Affirmative Action Programs - It would also very likely subject police employers to greater affirmative action related problems. In this regard these employers would have to still provide inservice basic training programs in order to satisfy affirmative action objectives. (3) Employee-Age-Issues - Employers would also have to provide in service basic training for more mature police candidates who have left the educational process, have participated in the labor marked, in business or a profession, etc. and have financial responsibilities, and are raising familes who must be provided income while making the transition to police employment. These employers would expect POST to continue to subsidize these training ventures. (4) Large Agency Problems - Other employers usually the large jurisdictions will for a number of reasons want, need, or desire to continue to operate their own training programs which include basic training. For these agencies because of the volume of attrition they must operate substantially on-going basic training programs for their recruits. They cannot fully now depend upon regionally operated trainers to accomodate them. Many of these agencies believe that their curriculum, training length and methodology, instructional excellence and agency specific training needs influenced by their community or policing problems require that they train their own recruits. These, agencies for the greater efficiency of their training function, must keep their training staff occupied while they are not invloved in inservice and other training activities. (5) Transition - Given that the pre-service training concept has significant merit, a move of this kind should only be proposed on the condition that implementation is expected on the basis of a gradual transition. It might be appropriate for the Commission when endorsing the concept at the same time to announce its plan to support the concept by the programed reduction of inservice basic training subvention and perhaps with a closing date for such reimbursement, or the establishment of the limited conditions under which such reimbursment would be provided.

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### Basic Training Curriculum/Management

The proposed licenseing bill fosters the preservice training concept. This could be manifested in a number of ways, i.e., by the trainee attending an: intensive format POST certified basic academy of the 400+ hour type; the POST certified extended format 400+ hour basic academy; Community College Administration of Justice semester length courses which would be supplemented with basic academy how-to, and skills training; and finally a university police-administration degree program together with the basic academy how-to and skills training. All of these options are now available; however, the basic academy supplement presently is not widely available, if at all.

The provision of the basic academy supplement is not likely to be viewed favorably by basic academy presenters. It has been contended that training costs would be quite high for the supplement as compared with the remainder of the basic course curriculum. It has been suggested that the trainees who are to undergo the supplementary training could be scheduled, along with other trainees who are attending an intensive format basic academy, as the how-to and skills topics arise in the training schedule. Or that the training schedule be so designed that all of the how-to and skills topics would be so scheduled to form a block of instruction that is exclusively presented during a given number of consecutive days. In any event this would under either alternative very likely result in the introduction of new and additional trainees whose untimely arrival would present difficulties for both the core trainees as well as the supplement trainees and the instructors. The supplementary trainees would be unfamiliar with the routines, the instructors and the core students as well as with the facility etc. They would also be out of tune with the core trainees in terms of the scholastic and personal discipline that has been attained by the core class. At best, the introduction of these trainees into the instructional process will likely be disruptive; this result would be even more so in the alternative of the supplementary training occurring as it would occur during a normal scheduling of a basic course (rather than when scheduling such training in a block).

### Subject Matter Testing

Subject matter testing, as proposed in the bill, further complicates the process. It too would address the persons whose training was acquired by other than completion of a POST certified basic academy and would (could) also include out of state trained persons and self instructed students, some of whom would also need to complete the supplementary training topics. These persons would in addition, when they fail portions of the examination, demand the opportunity for remediation. This eventuality would likely intensify the difficulties previously mentioned with regard to the supplementary training issue - with perhaps the introduction of other problems related to classroom space. With many classes booked to maximum enrollment, trainees requiring remediation in core topics, these being generally classroom presentations, might not be seated. At the very least this would result in exceeding the desirable instructor/student ratio. It should also be observed that with

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regard to knowledge versus how-to-do and skills training in basic academies, that they frequently are interdependent. For these topics the proposition that separate instruction be provided may have some theoretical basis of soundness, but in practice may provide the trainers real problems.

#### Across the Board Peace Officer Coverage

As proposed the bill would pertain to all peace officer classifications with a few designated exceptions. Coverage this extensive I believe is far too broad and will present the Commission and the law enforcement community of California with, for the most part, a nearly insurmountable array of tasks and inestimable expenses.

While it may be contended that local law enforcement officers should be licensed, one can identify little or no rational reason to include such other classifications as probation officers or most of the other peace officer classifications.

There appears to be an underlying assumption that all licensed peace officers should attend the same course of training - the training now designed for and required of local police and sheriff personnel. It is obvious that in terms of basic training for all peace officer classifications there is no existing universal basic course, nor is there likely ever to be one. The training needs of each of these classifications is different depending on the tasks that are performed.

POST does not now have the finances or staff to conduct the research in terms of job analyses, curriculum development and subject matter tests that would be called for by this bill (considering the previous statement).

Basic training development, scheduling and presentation are now shared by law enforcement employers and the regional academies operated by the Community College System. For many peace officer classifications there now is no basic training nor is any now required. The preservice training concept apparently operates on the notion that the existing basic training standard for local law enforcement officers would become the universal training standard. Many persons believe this obviously cannot and should not be. Thus, if these observations and conclusions are correct the existing basic training system would have to be vastly expanded. For many peace officer classifications, due to the limited number of persons involved class by class, there may not be sufficient volume to warrant the per capita training costs.

It is reasonable to believe that the scope of coverage of the bill regarding peace officers should be very narrow and that the bill should only apply, if at all, to peace officer classifications that have the broadest authority, i.e., local police and sheriff's personnel.

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### Licensing - Prespectives

From the law enforcement officer's point of view, licensing, as being proposed, would be viewed as desirable particularly if the officer is not subjected to satisfying requisits that do not currently otherwise exist. In effect the officer would be provided free agent status.

From the local law enforcement employers point of view until most, if not all, candidates are preservice trained all of the existing recruitment/retention problems will continue to exist and may, in fact, be intensified. The agencies that currently induct candidates into law enforcement employment and prepare them as journeymen only to lose them later to other agencies that can offer better pay, benefits, career advancement or working conditions, will continue to suffer as they do now. The agencies that attract these journeymen will likely find licensing to be beneficial particularly where their retirement programs are portable.

From the point of view of employers of peace officers, other than perhaps local law enforcement jurisdictions, licensing as proposed should offer more disadvantages than advantages. For example, in many cases, they will be required to comply with the 400+ hour minimum basic training requirement rather than the 40 hour 832 PC training requirement. They would likely be concerned about the inappropriateness of the 400+ hour curriculum for their classifications of peace officers - who are not "street cops". These employers might also share the concerns of the local law enforcement employers just previously mentioned who lose journeymen after sustaining the expense of bringing them to that point of preparation.

From the point of view of many local law enforcement employers there is little practical correlation between the preparedness of persons trained to be peace officers in intensive format basic academies and persons who complete the Administration of Justice Associate of Arts Degree program. The licensing bill as proposed places great importance upon both preservice training and on education as alternatives - if not the replacement - for inservice academy training. The objective and subjective aspects of the two approaches (i.e., education/v.training) to prepare persons to be peace officers should perhaps once again be thoroughly evaluated.

From the point of view of academy trainers the AJ alternative is obviously both threatening to their programs and is viewed as an unsatisfactory means to train persons to be peace officers. These trainers are also concerned about having to supplement the AJ education of students with the necessary skills training not otherwise provided to AJ graduates.

From the point of view of POST all of the above matters should be concerns. In addition, POST together with all the other interested parties should be able to answer the questions: What will licensing accomplish? Is licensing



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necessary? POST should also be concerned with the effects of the licensing bill as proposed upon: the quality of training and the preparedness of persons to be peace officers; the status of the POST Reimbursement Program and the adequacy and continuance of revenue; and a substantially greater reliance upon testing perhaps in lieu of formal structured training. The liability for reliance upon such testing in the absence formal training should also be explored.

#### Bifurcation of Responsibility

POST should be concerned with the bifurcation of responsibility proposed by the bill. As now written, the bill provides that POST is responsible for establishing standards for eligibility including testing and for adopting necessary procedures; but responsibility to determine facts, which would lead to the Commission revoking a license, is given to the Attorney General. All functions of licensing should be designated responsibilities of the Commission. The Attorney General's role should be, although not as a part of this act, to provide the Commission with legal representation. The Attorney General's office would find itself with a conflict of interest if it were required to serve as both the prosecutor (as the POST counselor) as well as the tryer of fact.

The language in the bill in effect gives the Attorney General's office too broad powers in that it is entrusted to determine if a licensee for example: "Has committed any act which, if committed by an applicant, would be grounds for refusal to grant a certificate." or "Has violated an provision of this chapter." The responsibility to make these determinations is without regard to whether the concerned person has been properly charged and tried for these alleged acts in a properly constituted court of law if such acts are violations of law. An applicant, for example, must be subjected to a thorough background investigation to insure that he/she is of good moral character or is not predisposed to the use of alcohol or does not possess other negatively perceived propensities. The present language of the bill would subject licensees to continuous appraisal of their behavior and possible loss of their employment as a result of the revocation of a license. This may have merit, but does POST want to take this on? There is no provision in the bill that such revocation proceedings normally must occur after local disciplinary and/or court action has sustained the allegation, or that in extraordinary circumstances (while following expressed procedures) revocation of license proceedings could be initiated without a previous administrative or court disposition. At any rate control and oversight responsibility regarding all aspects of licensing including revocation should be direct responsibilities of the Commission. The bill should state that (rather than determinations by the Attorney General) the Commission should provide, when appropriate and in accordance with established procedure, for hearings that are conducted in conformance with the Administrative Procedures Act (Government Code Section 11500 et seq.). All such hearings should be conducted by a qualified hearing officer.

POST should ensure that via licensing it is not drawn into the position of interfering in the internal affairs and discipline responsibilities

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of employers. Intervention, if necessary, should only occur as a result of an action initiated by the Attorney General or other appropriate authorities alleging misfeasance or other wrongdoing by the employer.

Summary of Observations re Content of the Proposed Bill

As now worded this proposal would have the following effects: (1) omits sub-sections (b) and (c) of 13510; (2) omits the present design of section 13510 which requires the minimum standards adopted by the Commission be adhered to by any city or county, etc., that receives state aid pursuant to Chapter 4.5 of title 4; (3) places the Commission and the State Personnel Board in conflict with regard to responsibility for determining selection standards for peace officer classifications within state government; (4) makes Penal Code Section 13510.5 superfluous; (5) omits the present requirement that the selection and training rules adopted by the Commission be adopted in pursuant to the laws governing the initiation of administrative law.

While there is no explicit mandate expressed in the wording proposed in the bill for 13510, that the selection and training standards adopted by the Commission must be adhered in order to receive state aid from the Commission, it may be intended by the proponents that this scheme is still legislatively intended by § 13522 and 13523.

While 13500 et seq. have been amended through the years so as to make the Commission responsible to provide for peace officers who are not employed by local government (i.e., 13510.5) it is abundantly clear that the Legislature originally and consistently thereafter intended (with the noted exception and the accomodation of the University of California and the California State University and Colleges) that the attention of the Commission be directed to peace officers employed by local government. Note for example: that the Commission is composed of various persons who are employees of local government with the exception of the Attorney General, the public members, and the educator/trainer (13500); that for the purposes of compensation, attendance of Commission meetings shall be deemed performance of (a commissioner's) duties of local government (13502); that in terms of powers the Commission work effectively with stated elements of local government (13503(d)); that in terms of exercising its functions the Commission place emphasis upon providing training and other services to local law enforcement agencies; that management counseling services be only provided to local jurisdictions (13513); that with regard to sexual assault that no reimbursement shall be made to a local jurisdiction whose basic training does not adhere to the sexual assault training standard adopted by the Commission (13516) and with regard to first aid training the same requirement (13517); that grants of aid to local government (together with POST administrative budget) are the exclusive costs to be sustained by the POTF (13520); that Section 13500 et seq. originally applied to peace officer employees of cities, counties, cities and counties, and districts but these sections were augmented to also include other non local government employers. The point illustrated by all of the above is that the proposed bill, in order to prevent ambiguity, must eliminate all anomalous references to local government.

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The proposed bill does not state in so many words that no person can exercise the powers of a peace officer except that he or she has been issued a valid POST certificate. Under the division dealing with misdemeanors and penalties, it is only proposed that it would be a crime "to practice as a peace officer" etc., or to employ a person as a peace officer who is not a certified peace officer.

In the proposed § 13525 "education" is mentioned relative to standards that must be adhered to. There is nothing thereafter directly stated in the proposed bill, that deals with education. It is possible within the broad authority or power of the Commission to establish an educational requirement for issuance of the certificate, but this is only speculative.

The language in 13525(d) as proposed in the bill while vague interjects a phrase which is difficult to interpret, apply to other provisions within the proposed act, or, in fact, reconcile with the activities or employment as of peace officers; i.e., "having both status and obligations beyond the temporary conditions of employment". What "status" and what "obligations"? "temporary"? This provision should be omitted.

In the proposed act "peace officer" is defined but expressly excludes reserve or auxiliary or any other peace officer as defined in Section 830.6 of the Penal Code. It is rather obvious that on the basis of defining a professional (peace officer) as a person who is paid for the performance of his or her services that therefore a volunteer (reserve or auxiliary peace officer) can not be a professional (peace officer). However, this definition, although correct when read on its own, when applied to the proposed (amended) § 13510 repeals the mandate that POST adopt regulations pertaining to the selection and training of reserve peace officers defined by § 830.6(a).

It should also be noted that § 830.3(c) defines as peace officers voluntary fire wardens as are designated by the Director of Forestry, § 830.8(b) also defines certain federal employees as peace officers, and that in accordance with the provisions of the proposed bill these voluntary fire wardens and federal employees would be subject to the provisions of the act and that reserves defined by § 830.6 would not. I believe that if volunteers are excepted then all such should be excepted; federal employees should be excepted as are members of the National Guard.

In the proposed Section 13527 certain powers are given to the Commission that it now has and some provisions of this proposed section are either in conflict with 13510.1 and/or make certain provision of this law ambiguous.



## CHAPTER 2 PEACE OFFICER CERTIFICATION

Attachment A

## Article. Legislative Findings and Definitions

13525. The Legislature finds and declares:

- (a) That the occupation of peace officer is a profession requiring adherence to high standards of selection, education, special training, and ethical conduct.
- (b) That the technical competence of persons practicing this profession is a matter of the highest significance to the health, welfare, and safety of the citizens of this state.
- (c) That the establishment and maintenance of high professional and technical standards is best accomplished by the certification of persons who are, or seek to become, peace officers.
- ~~(d) That the recognition of peace officers as professionals having both status and obligations beyond the temporary conditions of employment will further enhance observance of professional standards.~~

13526. As used in this chapter:

- (a) "Commission" means the Commission on Peace Officer Standards and Training.

- (b) "Subject matter examination" means an objective examination approved by the commission to be used as an instrument to verify possession of minimum knowledge and skills by the Commission as outlined in its basic course, the <sup>satisfactory</sup> successful completion of <sup>which</sup> <sup>the examination approved by the commission</sup> shall be mandatory for any applicant for a certificate.
- (c) "Certificate" means the basic certificate issued by the commission to a peace officer who has met all the requirements set forth in this chapter and by the commission.
- (d) "Peace Officer" means all peace officers <sup>defined</sup> in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code; <sup>notwithstanding any provision of</sup> however, <sup>person</sup> nothing in this chapter shall be applied to any peace officer who is <sup>an officer and by law is designated as a peace officer, any</sup> elected to his/her position, members of the California national Guard as defined in Section 830.2 (c) of the Penal Code, <sup>any</sup> and Reserve Auxiliary or <sup>any</sup> other peace officers as defined in Section 830.6 of the Penal Code.

13510.1 ?

## Article 2. Commission on Peace Officer Standards and Training

13527. The commission, consistent with the terms and provisions of this chapter, shall have <sup>all of</sup> the following powers and duties:

- has now (a) To establish and amend standards and procedures for the certification of <sup>qualified</sup> peace officer personnel.
- has now (b) To adopt and amend appropriate rules and regulations to carry out the provisions of this chapter.

- (c) To develop or supervise the development of, and to administer, objective examinations to measure subject matter knowledge of applicants for a peace officer certificate.
- (d) To prevent unqualified persons from becoming certificated<sup>as</sup> peace officers.

### Certification

1. The Commission <sup>shall</sup> ~~may~~ <sup>at</sup> ~~issue~~ <sup>each qualified person who is employed as a peace officer</sup> certificates to all ~~peace officers~~ <sup>who was as such</sup> as defined in this chapter, first employed prior to January 1, 1982, who meet<sup>s</sup> the requirements established by the commission.
2. The commission shall <sup>issue a</sup> ~~grant~~ <sup>qualified</sup> certificates to all ~~peace officers~~ <sup>each person employed as a</sup> as defined in this chapter, <sup>who is</sup> first employed after December 31, 1981, who meet<sup>s</sup> the requirements established by this chapter and the commission.
3. After December 31, 1981<sup>3</sup>, the commission shall <sup>issue</sup> ~~grant~~ a certificate to <sup>each qualified</sup> any applicant whose employing agency <sup>attests</sup> ~~certifies~~ that:
  - (a) The applicant has passed a thorough background investigation <sup>has been</sup> conducted, in accord with the regulations of the commission, <sup>which demonstrates</sup> the applicant to be suitable for employment <sup>as a peace officer</sup>.
  - (b) The applicant has been examined by a licensed physician and <sup>surgeon and</sup> has been determined to meet the requirements of the commission.
  - (c) The applicant has been fingerprinted and a search has been conducted of local, state, and national fingerprint files to disclose any criminal record.

is a full time regularly peace officer of  
(d) The applicant shall be employed by a police or sheriff's department or department authorized by law to employ peace officers.

(e) The applicant has passed <sup>an entrance</sup> a subject matter examination <sup>approved</sup> prepared by, or under the direction of, the commission.

(f) The applicant has met all other requirements of the employing agency.

<sup>certification is recommended by the department head of</sup>  
(g) The applicant has been endorsed by the employing agency.

4. No person shall exercise the powers of a peace officer unless he or she is regularly employed and paid as such.

5. 4. Any person who has acquired <sup>is under consideration for hire and</sup> equivalent <sup>basic</sup> training may take the subject matter examination required by this chapter. The commission may charge <sup>that is equivalent to or exceeds the commission's minimum</sup> a fee of each person who takes the examination <sup>related to providing</sup> to defray the <sup>maintenance and</sup> administrative costs of processing the examination, for these persons, provided the fees <sup>shall only reimburse the commission for</sup> do not exceed the cost of preparing and administering the test.

6. 5. The commission shall deny a certificate to any applicant who:

(a) Is not regularly employed and paid as a peace officer who is subject to the provisions of this chapter.

(a) Lacks the qualifications which are prescribed by law, or as prescribed by the regulations adopted by the commission.

(b) If <sup>c</sup> <sup>s</sup> physically or mentally so disabled as to be rendered unfit to perform the duties authorized by the certificate for which such person applies.

(c) Is dependent upon the use of controlled substances as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.

<sup>e</sup>  
(d) Has <sup>submitted an application which contains an</sup> intentionally practiced or attempted to practice any material <sup>misrepresentation</sup> deception, or fraud in <sup>order to obtain</sup> such person's application for a certificate.

<sup>f</sup>  
(e) Fails or refuses to furnish a <sup>satisfactorily</sup> completed background investigation questionnaire.

<sup>g</sup>  
(f) Has entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a crime classified by <sup>the Constitution or</sup> statute as a <sup>on or before</sup> felony at the time the commission considers the application, or if a crime committed in another state which if committed in this state could be classified as a felony, or a crime involving moral turpitude arising out of, or in connection with, or related to the activities of such person <sup>of such nature</sup> in such a manner, as to demonstrate unfitness to acquire or hold a peace officer certificate, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, ~~irrespective of an order granting probation following such conviction, suspending the imposition of sentence, or of a subsequent order under the provision of Section 1203.4 allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the plea or verdict of guilty, or dismissing the accusation or information.~~

<sup>person who previously was employed as and is as a peace officer</sup>  
6. Any peace officer re-employed after a break in service of more than <sup>as provided by subsection 3.</sup> three years must requalify ~~by taking the subject matter examination and any indicated remedial training, regardless of whether or not such peace officer possesses a certificate.~~

The commission shall deny a certificate to any applicant who comes within any of the following classes:

- (a) Has been determined to be a mentally disordered sexual offender under the provisions of Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code or under similar provisions of law of any other state.
- (b) Has been convicted of any sex offense as defined in Section 44010 or 87011 of the Education Code.
- (c) Who is not employed as a peace officer at the time the certificate is considered.

8.7. The commission is authorized to secure information, records, reports, and other data relative to the identification or fitness of any applicant for a certificate from any local agency or agency or department of the state and for such purpose, any provision of law to the contrary notwithstanding:

- (a) The Department of Justice shall <sup>without charge</sup> furnish, upon application of the <sup>and records</sup> commission, all information <sup>certificate holder or</sup> pertaining to any applicant of whom there is a record in its office.
- (b) The Department of Health shall <sup>without charge</sup> furnish, upon application of the commission and with the consent of the certificate holder or applicant, all information and records pertaining to that person of whom there is a record in its office.

The commission, upon written request of any agency employing peace <sup>defined in this chapter</sup> officers, shall release to that agency information and <sup>certification status</sup> other data relative to the identification or fitness of any applicant for a peace officer position in the requesting agency, ~~so long as such release by the commission is not prohibited by any other provision of law.~~

Whenever satisfactory proof is presented to the commission by any person to whom the commission has granted a certificate, that the certificate issued has been lost, stolen, or destroyed, the commission shall ~~issue a duplicate of~~<sup>replace</sup> the certificate lost, stolen, or destroyed.

9. The commission, ~~upon request~~<sup>jurisdiction or</sup>, may make such inquiries as may be necessary and may examine the files and records of any agency employing peace officers described in this chapter.

10. The commission may ~~revoke~~<sup>suspend or</sup> the certificate of any peace officer described in this chapter whom the ~~Attorney General~~<sup>commission</sup> determines: ~~based upon final adjudication by administrative procedure or court of law that the peace officer~~

(a) Has committed any ~~act~~<sup>specified</sup> which, if committed by an applicant, would be grounds for refusal to grant a certificate.

(b) Has aided or abetted any person in the violation of any provision of this chapter.

(c) Has violated any provision of this chapter.

11. The commission shall adopt, and may, from time to time amend rules and procedures regarding the denial, suspension or revocation of certificates. All hearings prescribed by the commission shall be conducted in conformance with the Administrative Procedures Act (Government Code Section 11500).  
Misdemeanor and Penalties

1. Any person who knowingly commits any of the following is guilty of a misdemeanor, and for each offense is punishable by a fine of not more than one thousand dollars (\$1,000) or imprisonment in the county jail not to exceed one year, or by both fine and imprisonment:

(a) Who ~~practices~~<sup>performs</sup> or offers to ~~practice~~<sup>perform</sup> as a peace officer ~~in this state~~<sup>as described in this chapter</sup> without being certificated as required by this chapter.



- (b) Who presents or attempts to present as the person's own the certificate of another.
- (c) Who permits another to <sup>unlawfully</sup> use his or her certificate.
- (d) Who knowingly gives false evidence of ~~any material kind~~ to the commission, or to any member thereof, including the staff, in obtaining a certificate.
- (e) Who impersonates a certificated peace officer.
- (f) Who uses, or attempts to use, a revoked certificate.
- (g) Who uses the title of "certificated peace officer" without being certificated as required by this chapter.
- (h) Who knowingly employs or causes to be employed, as a peace officer subject to the provisions of this chapter, a person who is not a certificated peace officer.
- (i) Who refuses, or fails, to return a certificate suspended or revoked under the provisions of this chapter.
- (j) Who violates any of the provisions of this chapter.



## Article 5. Report of Employments and Terminations

2. Any department or agency employing <sup>a</sup> peace officers~~s~~ required to be certificated <sup>as provided in</sup> under this chapter, shall report to the commission within 30 days of such employment the name of any <sup>person</sup> certificated officer~~s~~ who is newly employed <sup>as a peace officer</sup> by that agency, or whose employment <sup>as a peace officer</sup> terminates, <sup>approved</sup> after the effective date of this chapter, upon a form <sup>provided</sup> by the commission.

3. Nothing in this chapter shall be construed to prevent the establishment by local agencies of personnel standards higher than those established under this chapter.

4. Notwithstanding any other provision of this chapter any person who has not been issued the certificate by the commission, may only exercise the powers of a peace officer as prescribed by the commission.

An appropriation of (to be determined) from the Peace Officer Training

Fund is made for carrying out the provisions of this act.

If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

**Memorandum**

To : Norman C. Boehm  
Executive Director

Date : January 22, 1981

John Kohls, Bureau Chief  
George Williams, Bureau Chief

From : **Commission on Peace Officer Standards and Training**

Subject: PRE-EMPLOYMENT TRAINING AND LICENSING

As you probably know, we are against both pre-employment training and licensing for peace officers. We realize that the trends in these directions may be sufficiently strong that they cannot be changed. However, to assist POST in determining a final position regarding pre-employment training and licensing, we would like to express our opinions about them.

Control Over Training

We think that law enforcement has one advantage over all other professions--total control over initial training. All other professions must rely on often deficient accreditation procedures and almost universally inadequate licensing procedures to ensure the quality of training. Many say we should relinquish this control for financial reasons. However, the substantial costs associated with assuring quality of training through accreditation and licensing may, in fact, wipe out any financial benefits associated with pre-employment training.

Pre-Employment Training and Affirmative Action

We believe that emphasis on pre-employment training is anti-affirmative action. If pre-employment training becomes the rule, only those individuals who can afford to take advantage of the training will enter into the law enforcement profession. Eliminating from the pool of applicants those who currently wish to apply but cannot afford or are otherwise unable to sign-up for training reduces our ability to recruit qualified minorities. Ultimately, agencies will be placed in a position of legal liability when the number of minorities in their employ begins to drop rather than increase.

Affect of Hiring Standards on the Applicant Population

The third effect of raising the hiring requirements to include basic training will be to reduce the number of qualified applicants. At a time of an abundance of applicants as we experienced in the early '70's, this would pose no problem. However, we may find ourselves (as is now the case in Southern California) with a dearth of applicants. Some agencies are spending inordinate amounts of money trying to recruit applicants wherever they can find them, including going halfway across the U.S. to recruit experienced officers from other cities. Agencies are also reducing training time in order to solve the problem of under staffing. If the number of peace officer applicants continues to decrease, establishing a pre-employment training requirement will serve to exacerbate the problem.

Pre-Employment Training and Licensing

Requiring pre-employment training over which POST has less and less direct control will ultimately lead to an alternative means of control--licensing. To the extent that we can rely less and less on the quality of training, there will be more pressure placed upon POST to verify the extent to which graduates of training have mastered the POST performance objectives. The ultimate implication of this is a POST developed and administered licensing procedure. It is our personal belief that licensing procedures, when called for, are, at best, a necessary evil. The reason is this: it is extremely difficult and often impossible to develop an adequate test which reliably and accurately measures whether someone has mastered lengthy, complicated and demanding training. We think POST would be unwise to place the burden of verifying mastery of training exclusively on a licensing exam.

Licensing and POST Legal Liability

The POST administered licensing process would also place POST in an unprecedented position of legal liability. POST, in effect, would ultimately determine who can and who cannot work as a law enforcement officer in California. Those who do not pass the POST licensing exam can challenge POST's decision and place POST in a position of having to defend the test results. It is our personal belief that POST can accomplish its goals regarding the professionalism of law enforcement in California without placing itself in a position of such liability.

The Cost of Licensing

Placing POST in a position of legal liability will also place enormous demands on POST's financial resources. The cost of establishing, maintaining and defending the licensing procedure will be tremendous. It will be difficult to maintain the security of tests that are administered to thousands of individuals each year necessitating a large budget for test maintenance alone. In addition, a costly administrative process will have to be established to investigate and possibly revoke the licenses of officers who violate the licensing requirements. The burden on POST of policing (so to speak) 40,000 California law enforcement licensees will be staggering. In addition, the issue of who has the authority (i.e., the local agency or POST) to determine fitness to possess a license, will cause innumerable conflicts between POST and agencies in the POST program.

Burden of Licensing on Local Agencies

Not only will licensing place a tremendous burden upon POST, but also upon local agencies when they try to establish selection procedures to differentiate among the licensed applicants who apply for jobs in their agencies. At the present time there are a number of variables one can use to distinguish among qualified and non-qualified applicants, such as reading ability, writing ability and physical ability. With the advent of licensing, all applicants who apply for a position in any agency will be, by virtue of POST licensing procedure, deemed qualified to work as peace officers in California. What measurements will agencies use to reject these qualified applicants? We think that POST licensing procedures sets up local agencies for fair employment challenges to agency established selection procedures and standards.

Eight

### Conclusion

We believe that we should maintain the two advantages we have over most other professions by avoiding the trend toward pre-employment training and licensing. The two advantages that California law enforcement possesses now are:

1. Direct control over the training that aspiring law enforcement professionals receive.
2. Total flexibility in determining who is recruited into the profession.

Pre-employment training and licensing might provide financial advantages (although in light of the increased responsibilities and legal liabilities these advantages might be illusory). The disadvantages, however, are tremendous.

We recommend that POST resist the trend toward pre-employment training and licensing.

**Memorandum**

To : Management Team

Date : October 19, 1981

Executive Office

From : Commission on Peace Officer Standards and Training

Subject: MANAGEMENT TEAM MEETING, MONDAY, OCTOBER 19, 1981, 10:00 a.m.

AGENDA

- |                                 |             |
|---------------------------------|-------------|
| 1. Executive Director's Remarks | - Boehm     |
| 2. Peace Officer Licensing      | - Beauchamp |
| 3. Bureau Reports               | - Staff     |

DifferencesTask Force(1) Definition of a peace officer - Post staff  
*more restricted*Strongly  
Object(2) Separate Certificate from licensingObject(3) Required POST certified basic -  
*no test per se*Object(4) Employed to issue or retain certificateStrongly  
Object(5) Registered peace officer(6) Revoke license for unprofessional conduct(7) Renewed every 5 years(8) Temporary certificate for 120 days

## ARTICLE 4. PEACE OFFICER CERTIFICATION

### Legislative Findings and Definitions

13527. The Legislature finds and declares that:

- (a) The occupation of peace officer is a profession requiring adherence to high standards of selection, training, and ethical conduct; and
- (b) The technical competence of persons serving in this profession is a matter of the highest significance to health, welfare, and safety of the people of this state; and
- (c) The establishment and maintenance of high professional and technical standards is best accomplished by the certification of persons who are peace officers.

13529. As used in this chapter:

- (a) "Commission" means the Commission on Peace Officer Standards and Training.
- (b) "Examination" means an examination which verifies possession of ~~minimum~~

knowledge and skills which are prescribed by the commission in its basic training course. The satisfactory completion of the examination approved by the commission shall be mandatory for any applicant for a certificate, except as otherwise determined by the commission.

(c) "Certificate" means the peace officer certificate issued by the commission to a person employed as a peace officer who has met all the requirements set forth in this chapter and by the commission.

(d) "Peace Officer" means any sheriff, undersheriff, deputy sheriff of a county, any police officer of a city, or a *u m a* district authorized by statute to maintain a police department, provided that such person is regularly employed and paid in such capacity.

*not  
confuse*

13531. The commission, consistent with the provisions of this chapter, shall have all of the following powers:

- (a) To establish and amend standards and procedures for the certification of qualified peace officer personnel.
- (b) To adopt and amend appropriate rules and regulations to carry out the provisions of this chapter.



- (c) To develop or supervise the development of, and to administer, written and practical examinations to measure knowledge and skills prescribed by the commission in its basic training course.

#### Certification

13533. The commission shall, upon application, issue a peace officer certificate to each qualified person, <sup>? as determined by the Commission</sup> who is currently employed as a peace officer as defined in this chapter, who was first employed as such prior to January 1, 1984;

13535. The commission shall, upon application, issue a certificate to each qualified person, employed as a peace officer as defined in this chapter, who is first employed as such on or after January 1, 1984; the commission shall issue a certificate to each such qualified applicant whose employing agency attests that:

Graduate of  
POST certified  
Basic Course  
+  
agency  
specifications

- (a) A thorough background investigation has been conducted, in accord with the regulations of the commission, which demonstrates the applicant to be suitable for employment and certification as a peace officer.

What about  
other  
entry-level  
standards  
e.g. interview  
reading  
high school  
diploma

The applicant has been examined by a licensed physician and surgeon and has been determined to meet the requirements of the commission.



attended  
Post  
Certified  
Basic  
Training

- (c) The applicant has been fingerprinted and a search has been conducted of local, state, and national fingerprint files to disclose any criminal record.
- (d) The applicant is a full-time regularly employed peace officer as defined in this chapter.
- (e) The applicant has met all other requirements of the employing agency.
- (f) The applicant has passed the examination prescribed by the commission, unless waived by the commission.
- (g) The applicants certification as a peace officer is recommended by the department head of the employing agency.

13537. No person shall exercise the powers of a peace officer as defined in this chapter unless the person is regularly employed and paid as such.

13539. Any person who is under consideration for hire and has acquired basic training that is equivalent to or exceeds the commission's minimum basic training standard may, subject to procedural guidelines established by the commission, take the examinations prescribed by the commission. The commission may charge a fee of any person who takes the examinations; the fees shall not exceed

the amount necessary to reimburse the commission for the cost of administering and maintaining the examinations.

13541. Subject matter examination; waiver

The commission may waive the subject matter examination requirement for applicants who have successfully completed a basic course certified by the commission.

~~The commission may require that the approved examination be taken by candidates, who are otherwise eligible for an examination waiver, for informational purposes only.~~

13543. The commission may revoke a certificate, or deny any application for a certificate, or not renew a certificate for any person who:

- (a) Is not regularly employed and paid as a peace officer who is subject to the provisions of this chapter.
- (b) Lacks the qualifications which are prescribed by law, or as prescribed by the regulations adopted by the commission.
- (c) Is physically or mentally so disabled as to be rendered unfit to assume and discharge the responsibilities of a peace officer.

check

- (d) Is dependent upon the use of controlled substances as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.
- (e) Used fraud or deception in applying for the certificate or in passing the examination provided for in this chapter.
- (f) Fails or refuses to furnish a satisfactorily completed background investigation questionnaire.

#### Conviction Defined

*restoring*

A conviction within the meaning of this chapter means a plea or verdict of guilty or a conviction following a plea of nolo contendere to a felony charge or to any other charge substantially related to the qualifications, functions and duties of a registered peace officer. Any action which the commission is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4.

13545. Certificate. The commission shall issue <sup>to each qualified applicant</sup> ~~a certificate to each~~ ~~qualified applicant, which certificate,~~ so long as the renewal fees thereon have been paid, entitles the holder thereof to use the title of registered peace officer and to use the letters

R.P.O. in connection with his name.

13547. Any person who previously was employed as peace officer and is re-employed as a peace officer must requalify as provided by subsection 13535.

13549. The commission is authorized to secure information, records, reports, and other data relative to the identification or fitness of any certificate holder or applicant for a certificate, from any local agency or department of the state; and for such purposes, any provision of law to the contrary notwithstanding:

(a) The Department of Justice shall without charge furnish, upon request from the commission, all information and records pertaining to any certificate holder or applicant of whom there is a record in its office.

*check*

(b) The Department of Health shall without charge furnish, upon request from the commission and with the consent of the certificate holder or applicant, all information and records pertaining to that person of whom there is a record in its office.

*check*

13551. The commission, upon written request of an agency employing peace officers defined in this chapter, shall release to that agency information relative to the peace officer certification status of any applicant for a peace officer position in the requesting

*check*

agency.

13553. Whenever satisfactory proof is presented to the commission by any person to whom the commission has granted a certificate, that the certificate issued has been lost, stolen, or destroyed, the commission shall replace the certificate lost, stolen, or destroyed.

13555. The commission may make such inquiries as may be necessary and may examine the files and records of any jurisdiction or agency employing peace officers described in this chapter.

*Check*

#### Securing of Information

13557. For the sole purpose of ascertaining the moral character and true identity of the holder of a credential or an applicant for a credential or the renewal of a credential, the commission is authorized to secure information, records, reports, and other data from any agency or department of the state or any political subdivision of the state, whether chartered by the state or not, any provision of law to the contrary notwithstanding.

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The commission shall maintain the confidentiality of such information in accordance with Chapter 1 (commencing with Section 1798) of Title 1.8 of the Civil Code.

13559. Every applicant for a certificate or for the renewal of a certificate shall be deemed to have given his or her consent for the securing of, and disclosure of, information to the commission for the sole purpose of ascertaining the moral character and true identity of the holder of a certificate, the applicant for a certificate, or the applicant for the renewal of the certificate.
13561. The Department of Justice shall furnish, upon application of the commission or its authorized representative, all information pertaining to any applicant of whom there is a record in its office except that information which may compromise or prejudice an ongoing criminal investigative matter may be withheld until such matter is completed.
13563. With the written consent of an applicant for a certificate or a certificate holder, the commission upon written request of any police authority, shall release to that police authority information and other data relative to the identification or fitness of any applicant for a police position in the department so long as not otherwise prohibited by any other provision of law.
13565. Each application for a certificate shall contain notice that the information provided by the applicant is subject to investigation for, and verification of, the applicant's moral character and true identity by means of review of information, records, reports,

and other data from any agency or department of the state or any political subdivision of the state, whether chartered by the state or not, secured by the commission for such purposes.

13567. Suspension or revocation of license; powers of commission.

The commission may suspend or revoke the certificate of any person who is guilty on the grounds set forth in Section 13577. The proceedings for the suspension or revocation of certificates under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commission shall have all the powers granted therein.

13569. Review and reconsideration of action on application

The action of the commission upon the acceptance and rejection of applicants and the grading of examinations is final and not subject to review.

Every applicant whose application for a certificate has been rejected or who has failed to pass the examination may apply to the commission for a reconsideration of its action. The application for reconsideration shall be filed with the commission within 30 days after notice of the rejection or failure was received by the applicant and only one application for reconsideration

may be filed upon any one application for a certificate or upon  
any one application for an examination.

13571. Request for revocation as reason for revocation by commission

Whenever the holder of any certificate issued by the commission requests in writing that the certificate held by the person be revoked, the commission shall revoke such certificate.

13573. Immoral or unprofessional conduct, disobedience, as ground for revocation or suspension by commission.

The commission shall revoke or suspend for immoral or unprofessional conduct, or for persistent defiance of, and refusal to obey, the laws regulating the duties of persons serving as peace officers, or for any cause which would have warranted the denial of an application for a certificate or the renewal thereof, or for evident unfitness for service.

13575. Validity until revoked, suspended or expired; credentials void ab initio; grounds:

(a) Except as provided in Section 13583 and subdivision (b) all certificates regularly issued are valid until revoked, suspended, or expired as provided by law.



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(b) A certificate issued under either of the following circumstances  
~~if~~<sup>S</sup> void and shall be deemed to be void from the date it  
was issued:

(1) A certificate which would not have been issued but  
for material deception or fraud committed by an applicant  
or by another in the applicant's behalf; or

(2) A certificate which the commission had no lawful authority  
to issue and which would not have been issued but  
for some material mistake of law or fact by either  
or both the applicant and the commission.

(c) A notice that a certificate is void pursuant to paragraph  
(1) or (2) of subdivision (b) shall be served upon the certificate  
holder at his or her last known address as provided in Section  
1013 of the Code of Civil Procedure. Within 30 days thereafter,  
such notice may be appealed to the commission only on the  
grounds that there was no fraud, material deception, or  
error and that the commission had the lawful authority to  
issue the credential on the facts stated in the application.

13577. The commission may suspend or revoke the certification of any  
peace officer described in this chapter whom the commission  
determines following conviction by a court of law or upon final

adjudication by administrative procedures that the person has:

- (a) Committed any specified act which, if committed by an applicant, would be grounds for refusal to issue a certificate; or
- (b) Violated any provision of this chapter; or
- (c) Aided or abetted any person in the violation of any provision of this chapter; or
- (d) Willfully communicated confidential information without authorization; or
- (e) Demonstrated gross negligence in the discharge of the responsibilities of a peace officer; or
- (f) Violated any rule of professional conduct promulgated by the commission; or
- (g) Been convicted by a properly constituted court of, while under the color of office, intentionally subjecting another person to mistreatment or to unlawful arrest, detention, search or seizure, or denial of a lawful right.

13579. The commission shall adopt, and may, from time to time amend rules and procedures regarding the issuance, denial, suspension or

revocation of certificates. All hearings regarding the suspension or revocation of certificates as prescribed by the commission shall be conducted in conformance with the Administrative Procedures Act Government Code Section 11500.

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13581. Proof of lost or destroyed credential

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Satisfactory proof of loss or destruction of a certificate shall consist of an affidavit by the person, giving the date of issue, together with such other information as the commission may require.

13583. Renewal; expiration and reinstatement

Each certificate issued pursuant to this article shall be renewable quinquennially and each person holding a certificate under this article shall apply for a renewal of the person's certificate and pay the quinquennial renewal fee required by Section 13583 every five years on or before the last day of the month following the month in which the person's birthday occurs, beginning with the fifth birthday following the date on which the certificate was issued, whereupon the commission shall renew the certificate.

13585. Temporary certificates

The commission may issue temporary certificates for the purpose of authorizing service as peace officers by persons whose applications are being processed. The applicant for such a temporary certificate

shall make a statement under oath that the person has duly filed an application for a certificate together with the required fee and that to the best of the person's knowledge no reason exists why the person should not be issued a certificate. Such temporary certificate shall be valid for not more than 120 calendar days, and only until the certificate originally requested is either issued or denied by the commission.

#### Misdemeanor and Penalties

13587. Any person who knowingly commits any of the following acts is guilty of a misdemeanor, and for each offense is punishable by a fine of not more than one thousand dollars (\$1,000) or imprisonment in the county jail not to exceed one year, or by both fine and imprisonment:

- (a) Performs or offers to perform or exercise authority as described in this chapter without being certificated as required by this chapter; or
- (b) Presents or attempts to present as the person's own the certificate of another; or
- (c) Permits knowingly his or her certificate to be used unlawfully by another person; or

- KOHIS  
staff)
- (d) Knowingly gives false evidence to the commission, or to any member thereof, including the staff, in obtaining a certificate; or
  - (e) Impersonates a certificated peace officer; or
  - (f) Uses, or attempts to use, a suspended or revoked certificate; or
  - (g) Uses the title of "registered peace officer" without being certificated as required by this chapter; or
  - (h) Knowingly employs or causes to be employed, as a peace officer subject to the provisions of this chapter, a person who is not a currently certificated peace officer; or
  - (i) Refuses, or fails, to return a certificate suspended or revoked under the provisions of this chapter; or
  - (j) Violates any of the provisions of this chapter.

#### Report of Employment and Termination

13589. Any agency employing a peace officer required to be certificated as provided in this chapter, shall report to the commission within 30 days of such employment the name of any person who is newly

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employed as a peace officer by that agency, or whose employment as a peace officer terminates, upon a form approved by the commission.

13591. Nothing in this chapter shall be construed to prevent the establishment by local agencies of personnel standards higher than those established under this chapter.

13593. Notwithstanding any other provision of this chapter any person who has not been issued the certificate by the commission, may only exercise the powers of a peace officer as prescribed by the commission.

An appropriation of (to be determined) from the Peace Officer Training Fund is made for carrying out the provisions of this act.

If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

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CHAPTER 2 PEACE OFFICER CERTIFICATION

APPENDIX F  
(Proposed by POST staff)

Article. Legislative Findings and Definitions

13525. The Legislature finds and declares:

- (a) That the occupation of peace officer is a profession requiring adherence to high standards of selection, education, special training, and ethical conduct.
- (b) That the technical competence of persons practicing this profession is a matter of the highest significance to the health, welfare, and safety of the citizens of this state.
- (c) That the establishment and maintenance of high professional and technical standards is best accomplished by the certification of persons who are, or seek to become, peace officers.
- (d) That the recognition of peace officers as professionals having both status and obligations beyond the temporary conditions of employment will further enhance observance of professional standards.

13526. As used in this chapter:

- (a) "Commission" means the Commission on Peace Officer Standards and Training.



CHAPTER 2 PEACE OFFICER CERTIFICATION

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- (c) That the establishment and maintenance of high professional and technical standards is best accomplished by the certification of persons who are, or seek to become, peace officers.
- (d) That the recognition of peace officers as professionals having both status and obligations beyond the temporary conditions of employment will further enhance observance of professional standards.

13526. As used in this chapter:

- (a) "Commission" means the Commission on Peace Officer Standards and Training.

- (b) "Subject matter examination" means an objective examination approved by the commission to be used as an instrument to verify possession of a sampling of the knowledge and skills as outlined by the commission in its basic course, the successful completion of which shall be mandatory for any applicant for a certificate who has completed a basic course.
- (c) "Basic Course Equivalency Evaluation means an objective examination approved by the commission to be used as an instrument to verify possession of the minimum knowledge and skills as outlined by the commission in its basic course, the successful completion of which shall be mandatory for any applicant for a certificate who has not attended a POST basic course.
- (d) "Certificate" means the basic certificate issued by the commission to a peace officer who has met all the requirements set forth in this chapter and by the commission.
- (e) "Peace Officer" means a peace officer member of a city police department, a county sheriff's department, a regional park district, a district authorized by statute to maintain a police department, the California Highway Patrol, the University of California Police, the California State University and Colleges Police, and a community college police department.

Article 2. Commission on Peace Officer Standards  
and Training

13527. The commission, consistent with the terms and provisions of this chapter, shall have the following powers and duties:

- (a) To establish and amend standards and procedures for the certification of peace officer personnel.
- (b) To adopt and amend appropriate rules and regulations to carry out the provisions of this chapter.
- (c) To develop or supervise the development of, and to administer, objective examinations to measure subject matter knowledge and mastery (equivalent training) of applicants for a peace officer certificate.
- (d) To prevent unqualified persons from becoming certificated peace officers.

Certification

- 1. The commission may issue certificates to all peace officers as defined in this chapter first employed prior to January 1, 1984, who meet the requirements established by the commission.
- 2. The commission shall grant certificates to all peace officers as defined in this chapter, first employed after December 31, 1983, who meet the requirements established by this chapter and the commission.

- After December 31, 1983, the commission shall grant a certificate to any applicant whose employing agency certifies that:
- (a) The applicant has passed a thorough background investigation conducted in accord with the regulations of the commission.
  - (b) The applicant has been examined by a licensed physician and has been determined to meet the requirements of the commission.
  - (c) The applicant has been fingerprinted and a search has been conducted of local, state, and national fingerprint files to disclose any criminal record.
  - (d) The applicant shall be employed by a police or sheriff's department or department authorized by law.
  - (e) The applicant has completed a POST basic course and passed a subject matter examination prepared by, under the direction of, the commission.  
*Not Proficiency Test ?*  
*OK*
  - (f) The applicant has successfully completed a POST-approved field training program.
  - (g) The applicant has met all other requirements of the employing agency.
  - (h) The applicant has been endorsed by the employing agency.

4. Any person who has acquired equivalent training may take the basic course equivalency examination required by this chapter. The commission may charge fees to defray the administrative costs of processing the examination for these persons, provided the fees do not exceed the cost of preparing and administering the test.
5. The commission shall deny a certificate to any applicant who:
  - (a) Lacks the qualifications which are prescribed by law, or as prescribed by the regulations adopted by the commission.
  - (b) If physically or mentally so disabled as to be rendered unfit to perform the duties authorized by the certificate for which such person applies.
  - (c) Is dependent upon the use of controlled substances as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.
  - (d) Has intentionally practiced or attempted to practice any material deception or fraud in such person's application for a certificate.
  - (e) Fails or refuses to furnish a completed background investigation questionnaire.

(f). Has entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a crime classified by statute as a felony at the time the commission considers the application, or if a crime committed in another state which if committed in this state could be classified as a felony, or a crime involving moral turpitude arising out of, or in connection with, or related to the activities of such person in such a manner as to demonstrate unfitness to acquire or hold a peace officer certificate, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following such conviction, suspending the imposition of sentence, or of a subsequent order under the provision of Section 1203.4 allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the plea or verdict of guilty, or dismissing the accusation or information.

6. Any peace officer re-employed after a break in service of more than three years must requalify by taking the subject matter examination and any indicated remedial training, regardless of whether or not such peace officer possesses a certificate.

13542. The commission shall deny a certificate to any applicant who comes within any of the following classes:

(a) Has been determined to be a mentally disordered sexual offender under the provisions of Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code or under similar provisions of law of any other state.

- (b) Has been convicted of any sex offense as defined in Section 44010 or 87011 of the Education Code.
- (c) Who is not employed as a peace officer at the time the certificate is considered.

7. The commission is authorized to secure information, records, reports, and other data relative to the identification or fitness of any applicant for a certificate from any local agency or agency or department of the state and for such purpose, any provision of law to the contrary notwithstanding:

- (a) The Department of Justice shall furnish, upon application of the commission, all information pertaining to any applicant of whom there is a record in its office.
- (b) The Department of Health shall furnish, upon application of the commission and with the consent of the certificate holder or applicant, all information and records pertaining to that person of whom there is a record in its office.

The commission, upon written request of any agency employing peace officers, shall release to that agency information and other data relative to the identification or fitness of any applicant for a peace officer position in the requesting agency, so long as such release by the commission is not prohibited by any other provision of law.



Whenever satisfactory proof is presented to the commission by any person to whom the commission has granted a certificate, that the certificate issued has been lost, stolen, or destroyed, the commission shall issue a duplicate of the certificate lost, stolen, or destroyed.

9. The commission, upon request, may make such inquiries as may be necessary and may examine the files and records of any agency employing peace officers described in this chapter.

10. The commission may revoke the certificate of any peace officer described in this chapter whom the Attorney General determines:

- (a) Has committed any act which, if committed by an applicant, would be grounds for refusal to grant a certificate.
- (b) Has aided or abetted any person in the violation of any provision of this chapter.
- (c) Has violated any provision of this chapter.

#### Misdemeanor and Penalties

1. Any person who knowingly commits any of the following is guilty of a misdemeanor, and for each offense is punishable by a fine of not more than one thousand dollars (\$1,000) or imprisonment in the county jail not to exceed one year, or by both fine and imprisonment:

- (a) Who practices or offers to practice as a peace officer in this state without being certificated as required by this chapter.

Who presents or attempts to present as the person's own the certificate of another.

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Justice

- (c) Who permits another to use his or her certificate.
- (d) Who knowingly gives false evidence of any material kind to the commission, or to any member thereof, including the staff, in obtaining a certificate.
- (e) Who impersonates a certificated peace officer.
- (f) Who uses, or attempts to use, a revoked certificate.
- (g) Who uses the title of "certificated peace officer" without being certificated as required by this chapter.
- (h) Who knowingly employs or causes to be employed, as a peace officer subject to the provisions of this chapter, a person who is not a certificated peace officer.
- (i) Who refuses, or fails, to return a certificate suspended or revoked under the provisions of this chapter.
- (j) Who violates any of the provisions of this chapter.

## Article 5. Report of Employments and Terminations

Any department or agency employing peace officers required to be certificated under this chapter, shall report to the commission within 30 days of such employment the name of any certificated officer who is newly employed by that agency, or whose employment terminates, after the effective date of this chapter, upon a form provided by the commission.

3. Nothing in this chapter shall be construed to prevent the establishment by local agencies of personnel standards higher than those established under this chapter nor to prevent the local administering of disciplinary action, including dismissal.

If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

7 Prepare to comment  
on 10/19/81

#### ARTICLE 4 PEACE OFFICER CERTIFICATION

Also look at

#### Legislative Findings and Definitions

task force report

from July Commission Meeting  
13527.

The Legislature finds and declares that:

+ (a) The peace officer occupation is a profession requiring

George's analysis adherence to high standards of selection, training, and  
of the task force ethical conduct; and

report + (b) The technical competence of persons serving in this profession

is a matter of the highest significance to health, welfare, and

safety of the people of this state; and

The results of the task force meeting of 10/13/81 (c) The establishment and maintenance of high professional and

technical standards is best accomplished by the certification

and registration of persons who serve as certain peace officers.

13529.

As used in this chapter:

(a) "Commission" means the Commission on Peace Officer Standards and Training.

(b) "Examination" means an examination which verifies possession of knowledge and skills, which are prescribed by the commission in its basis training course.


(c) "Certificate" means the registered peace officer certificate issued by the commission to a person employed as a peace officer as defined in this chapter. The certificate shall be approximately 2 1/4" x 3 1/4" in size.

Issue of  
separation  
of the certificate  
program and  
"certification"

(d) "Peace Officer" means any sheriff, undersheriff, deputy sheriff of a county, any police officer of a city, or any police officer of a district authorized by statute to maintain a police department, provided that such person is regularly employed and paid in such capacity.

13531. The commission, consistent with the provisions of this chapter, shall have all of the following powers:
- (a) To establish and amend standards, rules, and procedures for the issuance, denial, suspension or revocation of "certificates" for peace officers.
  - (b) To establish and charge fees for the issuance, re-issuance and replacement of registered peace officer certificates.
  - (c) To adopt and amend appropriate rules and regulations to carry out the provisions of this chapter.
  - (d) To develop or supervise the development of, and to administer, written and practical examinations to measure knowledge and skills prescribed by the commission in its basic training course.

#### Certification

13533. The commission shall, upon application, issue a peace officer certificate to each qualified person as determined by the commission, who is currently employed as a peace officer as defined in this chapter, who was first employed as such prior to January 1, 1984;
13535. The commission shall, upon application, issue a certificate to each qualified person, employed as a peace officer as defined in this chapter, who is first employed as such on or after January 1, 1984; the commission shall issue a certificate to each such qualified applicant whose employing agency attests that:
- (a) The applicant is a full-time regularly employed peace officer as defined in this chapter
  -  (b) The applicant has satisfactorily completed a basic course of training certified by the commission or has passed the examination prescribed by the commission.

(c) The applicant's certification as a peace officer is recommended by the department head of the employing agency.

(d) The applicant has met all requirements for employment as a peace officer prescribed by law or by the commission and any other requirements of the employing agency.

13537. No person shall exercise the powers of a peace officer as defined in this chapter unless the person is regularly employed and paid as such and has in his or her possession the registered peace officer certificate or except as otherwise provided by the commission.

13539. Any person who is under consideration for hire and has acquired basic training that is equivalent to or exceeds the commission's minimum basic training standard may, subject to procedural guidelines established by the commission, take the examinations prescribed by the commission. The commission may charge a fee of any person who takes the examinations; the fees shall not exceed the amount necessary to reimburse the commission for the cost of administering and maintaining the examinations.

13541. Examination; waiver

The commission may waive the examination requirement for applicants who have satisfactorily completed a basic course certified by the commission.

13543. The commission may revoke a certificate, or deny any application for a certificate, or not renew a certificate for any person who:

(a) Is not regularly employed and paid as a peace officer who is subject to the provisions of this chapter.

(b) Lacks the qualifications which are prescribed by law, or as prescribed by the regulations adopted by the commission.

- (c) Is physically or mentally so disabled,, as determined by the commission, as to be rendered unfit to assume and discharge the responsibilities of a peace officer.
- (d) Is dependent upon the use of controlled substances as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.
- (e) Used fraud or deception in applying for the certificate or in passing the examination provided for in this chapter.

Conviction Defined

A conviction within the meaning of this chapter means a plea or verdict of guilty or a conviction following a plea of nolo contendere to a felony charge or to a crime charged in another state which if charged in this state could be classified as a felony or to any other charge substantially related to the qualifications, functions and duties of a registered peace officer. Any action which the commission is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal of when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4.

13545. Certificate. The commission shall issue to each qualified applicant a certificate which, so long as the renewal fees thereon have been paid, entitles the holder thereof to use the title of registered peace officer and to use the letters R.P.O. in connection with his name.

13547. Any person who previously was employed as peace officer and is re-employed as a peace officer must requalify as provided by section



13549.

Every applicant for a certificate or for the renewal of a certificate shall be deemed to have given his or her consent for the securing of, and disclosure of, information to the commission for the purpose of ascertaining the fitness for certification and true identity of the holder of a certificate, the applicant for a certificate, or the applicant for the renewal of a certificate.

- (a) The Department of Justice shall without charge furnish, upon request from the commission or its authorized representative all information and records pertaining to any certificate holder or applicant of whom there is a record in its office.
- (b) The Department of Health shall without charge furnish, upon request from the commission or its authorized representative, all information and records pertaining to that person of whom there is a record in its office.
- (c) The commission upon written request of any agency employing peace officers defined in this chapter shall release to that agency information and other data relative to the identification or fitness as a registered peace officer, of any applicant for a police position in that agency, so long as not otherwise prohibited by any other provision of law.

13551.

Each applicant for a certificate shall contain notice that the information provided by the applicant is subject to investigation for, and verification of, the applicant's fitness for certification and true identity by means of review of information, records, reports, and other data from any agency or department of the state or any political subdivision of the state, whether chartered by the state or not, secured by the commission for such purposes.

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For the purpose of ascertaining the fitness for certification and true identity of the holder of a certificate or an applicant for a certificate or the renewal of a certificate, the commission is authorized to make such inquiries as may be necessary to secure and examine information, records, reports, and other data from any agency or department of the state or any political subdivision of the state, whether chartered by the state or not, any provision of law to the contrary notwithstanding.

13555.

Suspension or revocation of license; powers of commission.

The commission may suspend or revoke the certificate of any person who is guilty on the grounds set forth in Section 13563. The proceedings for the suspension or revocation of certificate under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commission shall have all the powers granted therein.

13557.

Review and reconsideration of action on application

The action of the commission upon the acceptance and rejection of applicants and the grading of examinations is final and not subject to review.

Every applicant whose application for a certificate has been rejected or who has failed to pass the examination may apply to the commission for a reconsideration of its action. The application for reconsideration shall be filed with the commission within 30 days after notice of the rejection or failure was received by the applicant and only one application for reconsideration may be filed upon any one application for a certificate or upon any one application for an examination.

13559. Request for revocation as reason for revocation by commission  
Whenever the holder of any certificate issued by the commission requests in writing that his or her certificate be revoked, the commission shall revoke such certificate.

13561. Certificates valid until revoked:

Except as provided in Section 13583 and subdivision (a) all certificates regularly issued are valid until revoked, suspended, or expired as provided by law.

(a) A certificate issued under either of the following circumstances is void and shall be deemed to be void from the date it was issued:

(1) A certificate which would not have been issued but for a material deception or fraud committed by an applicant or by another in the applicant's behalf; or

(2) A certificate which the commission had no lawful authority to issue and which would not have been issued for some material mistake of law or fact by either or both the applicant and the commission.

(b) A notice that a certificate is void pursuant to paragraph (1) or (2) of subdivision (a) shall be served upon the certificate holder at his or her last known address as provided in Section 1013 of the Code of Civil Procedure. Within 30 days thereafter, such notice may be appealed to the commission only on the grounds that there was no fraud, material deception, or error and that the commission had the lawful authority to issue the certificate on the facts stated in this application.

13563. Unlawful or unprofessional conduct disobedience, as grounds for revocation or suspension of certificate.

The commission may suspend or revoke the certification of any peace officer described in this chapter whom the commission

determines following conviction by a court of law or upon final adjudication by administrative procedures that the person has:

- (a) Committed any specified act which, if committed by an applicant, would be grounds for refusal to issue a certificate:  
or
- (b) Violated any provision of this chapter; or
- (c) Aided or abetted any person in the violation of any provision of this chapter; or
- (d) Willfully communicated confidential information without authorization; or
- (e) Demonstrated gross negligence or evident unfitness in the discharge of the responsibilities of a peace officer; or
- (f) Violated any rule of professional conduct promulgated by the commission; or
- (g) Intentionally under the color of office, subjected another person to mistreatment or to unlawful arrest, detention, search or seizure, or denial of a lawful right.
- (h) Demonstrated persistent defiance of, and refusal to obey the laws and rules regulating the duties of persons serving as peace officers.

13567.

Replacement of and proof of lost or destroyed certificate:

Whenever satisfactory proof is presented to the commission by any person to whom the commission has granted a currently valid certificate, that the certificate issued has been lost, stolen or destroyed, the commission shall, subject to the payment of the appropriate fee, replace the certificate.

Satisfactory proof of loss or destruction of a certificate shall consist of an affidavit by the person, giving the date of issue, together with such other information as the commission may require.

13569. Each certificate issued pursuant to this article shall be renewable quinquennially and each registered peace officer for whom a certificate has been issued shall apply for a renewal of the certificate and pay the quinquennial renewal fee every five years on or before the last day of the month following the month in which his or her birthday occurs, beginning with the fifth birthday following the date on which the certificate was issued, whereupon the commission shall renew the certificate.

13571. Temporary certificates

The commission may issue temporary certificates for the purpose of authorizing service as peace officers by persons under the following conditions:

- (a) The applicant for a temporary certificate shall state under oath that he or she has duly filed an application for a certificate together with the required fee and that to the best of the person's knowledge no reason exists by the person should not be issued a certificate. Such temporary certificate shall be valid for not more than 120 calendar days and only until the certificate originally requested is either issued or denied by the commission.
- (b) The applicant for a temporary certificate states in writing, under oath, that he or she has been employed as a peace officer, as defined in this chapter, and has met all of the requirements for the issuance of the peace officer certificate except for the completion of basic training. While participating as a trainee in a supervised field training program approved by the commission such person may exercise the powers of a peace officer.

### Misdemeanor and Penalties

13573.

Any person who knowingly commits any of the following acts is guilty of a misdemeanor, and for each offense is punishable by a fine or not more than one thousand dollars (\$1,000) or imprisonment in the county jail not to exceed one year, or by both fine and imprisonment:

- (a) Performs or offers to perform or exercise the powers of a peace officer without being certificated as required by this chapter; or
- (b) Presents or attempts to present as the person's own the certificate of another; or
- (c) Permits knowingly his or her certificate to be used unlawfully by another person; or
- (d) Knowingly gives false evidence to the commission, or to any authorized representative of the commission, in obtaining a certificate; or
- (e) Impersonates a registered peace officer; or
- (f) Uses, or attempts to use, a void, suspended, or revoked certificate; or
- (g) Uses the title of "registered peace officer" without being certificated as required by this chapter; or
- (h) Knowingly employs or causes to be employed, as a peace officer subject to the provisions of this chapter, a person who is not a currently registered peace officer; or
- (i) Violates any of the provision of this chapter.

### Report of Employment and Termination

13575.

Any agency employing a peace officer required to be certificated as provided in this chapter, shall report to the commission within

30 days of such employment the name of any person who is newly employed as a peace officer by that agency, or whose employment as a peace officer is suspended or terminates, upon a form approved by the commission.

13577. Nothing in this chapter shall be construed to prevent the establishment by local agencies of personnel standards higher than those established under this chapter.

13579. Notwithstanding any other provision of this chapter any person who has not been issued the certificate by the commission, may only exercise the powers of a peace officer as prescribed by the commission.

An appropriation of (to be determined) from the Peace Officer Training Fund is made for carrying out the provisions of this act.

If any provision of this act or the application thereof to any person or circumstances, held invalid, such invalidity shall not affect other provision or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.



*Licensing*

## Memorandum

To : Professionalization Coordinating Committee

Date : September 22, 1981

From : Brooks Wilson, Senior Project Coordinator  
**Commission on Peace Officer Standards and Training**

Subject: MINUTES - PROFESSIONALIZATION COORDINATING COMMITTEE MEETING  
SEPTEMBER 3, 1981

### COMMITTEE MEMBERS PRESENT

Chairman Nathaniel Trives, POST Commission  
Rick Baratta, PORAC  
Ray Davis, CPOA  
William Kolender, POST Commission  
Richard Lucero, PORAC  
Jim McGill, PORAC  
William Shinn, PORAC  
David Swim, PORAC

### POST STAFF PRESENT

Gene DeCrona, Senior Consultant  
Darrell Stewart, Senior Consultant  
George Williams, Bureau Chief  
Brooks Wilson, Senior Project Coordinator  
Nancy Applegate, Secretary

### CALL TO ORDER

The meeting of the Professionalization Coordinating Committee was called to order by Chairman Trives at 10:00 a.m. The first item on the agenda was the report from the Task Force on Continuing Education I, relative to supervisory and management training. Darrell Stewart, staff liaison to this task force, reviewed the eight recommendations (Attachment I).

### TASK FORCE ON CONTINUING EDUCATION I

1. Initial Training Requirements: Several questions regarding the proposed amendment to POST Regulation 1005(b) and (c) were raised and discussed concerning (1) selection process, (2) need or desire to promote prior to training, (3) completion of training and then subsequent poor performance in a supervisory position, (4) insufficient frequency of supervisory schools, (5) availability of space for trainees in schools, and (6) timely scheduling of supervisory courses.

MOTION - Kolender, second - Davis, carried unanimously to oppose the Task Force's recommendation.

Following a discussion on the need for timely training, the following action was taken:

MOTION - Davis, second - Shinn, carried unanimously that POST should take immediate steps to ensure greater availability of supervisory training immediately after promotion and all police agencies should be encouraged to utilize the training as rapidly as possible after promotion. As soon as sufficient supervisory training is available, the year's cap should be reduced to six months.

2. Supervisory Management Update: The Committee favored this recommendation that supervisors and managers be required to successfully complete certified supervisory and management update courses at least once every two years after promotion. Dave Swim expressed concern about whether this training would apply only to those in the position of supervising personnel or would it apply to anyone who makes the rank of sergeant or equivalent, regardless of whether or not they are in a supervisory capacity at that time. After discussing this issue further, the following action was taken:

MOTION - Kolender, second - Davis, carried unanimously to approve the Task Force's recommendation, with the understanding that anyone who achieves the rank of sergeant or equivalent be eligible for this supervisory update training, regardless of whether or not their present assignment encompasses actual supervision.

3. Administrators Course: The Committee agreed that the establishment of an Administrators Course for upper level management positions would help eradicate administrative matters from the Executive Courses. It was noted that this training is not intended to be mandated.

MOTION - Kolender, second - Lucero, carried unanimously to accept the recommendation of the Task Force.

4. Supervisory and Management Course Curricula: Darrell Stewart explained the idea of modularization of the supervisory and management courses to the Committee. Following a brief discussion of this idea, the following motion was made:

MOTION - Davis, second - Shinn, carried unanimously to approve the recommendation of the Task Force.

5. Adequate Performance Objective Testing: After discussing this recommendation, the Committee agreed that appropriate testing processes should be developed and properly administered, and that unless the test is successfully completed, a certificate should not be issued. The Committee also discussed reimbursement as it relates to this recommendation and came to the consensus that they are two separate issues to be dealt with.

MOTION - Baratta, second - Davis, carried unanimously to accept this recommendation as written by the Task Force.

6. Instructor Development: Darrell Stewart stated that the Task Force is very concerned with instructor quality. This sentiment was echoed by the entire Committee.

MOTION - Davis, second - Kolender, carried unanimously to approve this recommendation.

In regards to the Instructor's Handbook, Chairman Trives stated that a clause could be added to the instructor's contract that would ensure the objectives of the course are satisfactorily met.

7. Improved Quality Control: After a brief summary of this recommendation by Darrell Stewart, the following motion was made:

MOTION - McGill, second - Kolender, carried unanimously to accept the Task Force's recommendation.

8. Training vs. Education: In reviewing this recommendation, the Committee expressed concern about (1) the quality of the degree program as it relates to police education, (2) that such courses do not meet the needs of law enforcement, (3) declining enrollment, and (4) the lack of progress made in this area. Ray Davis suggested that the Committee chosen to work with educators to develop relevant upper division courses and degree programs for law enforcement be comprised of top-level executives in the education field. This idea was well received by the entire Committee.

MOTION - Davis, second - McGill, carried unanimously to approve the recommendation.

After the motion had passed, Brooks Wilson asked the Committee if there were any objections if the committees that would review the AA degree program and the upper division program were the same. After some discussion, it was felt that the two committees should be separate.

#### TASK FORCE ON NEW ORGANIZATIONAL CONCEPTS

George Williams stated that a tentative final recommendation had been reported at a previous meeting, and that the final recommendation has been forthcoming and is, in substance, the same recommendation previously presented. Ray Davis stated that from CPOA's standpoint, they would be opposed to the Task Force's recommendation, but could accept an exploration of this topic without taking a stand. Brooks Wilson added that this was the feeling of the Commission; that it was their desire to have contacts made with specific groups (CSAC, League of California Cities, CPOA) to get some idea of how this concept would be received. Rick Baratta stated that he felt where it was politically feasible, consolidation would occur. He also stated that the consolidation of services should be looked at. Ray Davis said he felt the issue to be considered is consolidation for

efficiency, basic level of police service to be guaranteed to all people, and a better level of police service. Dave Swim mentioned that one of the Task Force's objectives was that there should be a basic level of law enforcement that everyone in the State of California is entitled to and the only way to achieve this is through regionalization.

MOTION - Lucero, second - Davis, to reject the New Organizational Task Force's recommendation and to look into the political feasibility of consolidation and the possibility of moving further in this direction. If it appears there is too much resistance to this concept, no more time should be spent in this area.

The second item on the agenda was consideration of exceptions of the POST Commission to the Committee's previously approved recommendation.

#### TASK FORCE ON CONTINUING EDUCATION AND TRAINING

The first item discussed was regarding information about felony convictions from local law enforcement agencies and minimizing redundancy with agency screening. The Commission felt that academies should be authorized only information about felony convictions. Ray Davis stated that very little information would be obtained if only the felony convictions were looked at. He felt it would be more valuable to look at all available information, particularly if it was to be used for purposes of counseling and/or screening.

MOTION - Kolender, to approve the Commission's recommendation, second - Davis, with the stipulation that he felt the recommendation did not reach far enough for screening purposes, carried unanimously for approval.

The second exception the Commission made to the Task Force's recommendations dealt with integrating the AA degree curriculum into the Basic Course so that the requirements of the AA degree, or its equivalent, be met upon graduation from the basic academy and prior to employment as a peace officer. The Commission action would authorize staff to work with academies, user agencies and the Chancellor's Office to develop an AA degree program which integrates the Basic Course and the degree. Rick Baratta stated that he disagreed with the Commission's recommendation and expressed the Task Force's concern about getting the colleges and academies to follow the direction of the Symposium on Professional Issues and that by having the year 1987 included in the recommendation, it allowed ample time to work and restructure the concept of requiring an AA degree prior to employment as a peace officer and make that AA relevant and included in the Basic Course. Kolender stated that San Diego is currently working towards this goal, and by the year 1983 an AA degree will be a required element in law enforcement employment in San Diego. They are currently trying to integrate the AA degree into the Basic Course. The question arose as to whether or not a degree would make a better police officer. Baratta stated that the AA degree program should be re-evaluated, consolidated with the Basic Course and then validated. Kolender said this recommendation should not be looked at with the courts in mind.

MOTION - Baratta, second - Swim, carried unanimously to retain the date 1987.

Brooks Wilson then inquired as to the direction the Coordinating Committee should take on this issue. Ray Davis stated that since the Coordinating Committee rejected the Commission's recommendation and accepted the Committee's original one, it should be presented to the Commission. Brooks stated that he would present the Committee's recommendation to the Commission at the next meeting in October.

#### TASK FORCE ON CONTINUING EDUCATION AND TRAINING, GROUP 2

The following recommendations were discussed and action taken as indicated.

1. Executive Profile Assessment: Gene DeCrona briefly explained this concept and Bill Shinn added that it would take the form of an assessment center that would be available as a resource for executive development. Ray Davis expressed concern about the confidentiality of such information.

MOTION - Kolender, second - Lucero, carried unanimously to accept the Commission's recommendation with the following change in language suggested by Ray Davis:

To explore the costs and capability of POST providing Executive Profile Assessment Systems, to be discussed more thoroughly at a subsequent Commission meeting.

2. Police College: After brief discussion on this subject, the Committee took the following action:

MOTION - Trives, second - Davis, carried unanimously to merge both recommendations of the Commission.

3. On-site Counseling by Outside Experts: Brooks Wilson explained this recommendation to the Committee, and there being no discussion, the following action was taken:

MOTION - Lucero, second - Kolender, carried unanimously to accept the Commission's recommendation.

#### TASK FORCE ON LICENSING/ENHANCED CERTIFICATION

Brooks Wilson presented an overview of the Commission's actions regarding legislation which would upgrade the Basic Certificate to license status. The Commission proposed six modifications to this legislation (Attachment B). The Committee took the following actions:

1. Rewording the definition of peace officer: Richard Lucero stated that PORAC has a broader definition of the term "peace officer" than POST does. He feels that this term should include everybody employed under P.C. 830. Rick Baratta added that the Task Force on Licensing decided to blanket all peace officers and recommend reimbursement. When the recommendation came to the Coordinating Committee it was accepted, with a qualifier on reimbursement. After a lengthy discussion on this issue, the following action was taken:



MOTION - Davis, second - Lucero, carried to approve the Commission's recommendation with the following language change:

Reword the definition of "peace officer" to include all peace officer categories for the purposes of licensing only and would have no application for reimbursement.

OPPOSE - Kolender

2. Rewording proposed P.C. Section 13527, para. 3(c):

MOTION - Kolender, second - Shinn, carried unanimously to accept the Commission's recommendation.

3. Rewording proposed P.C. Section 13527, para. H:

MOTION - Lucero, second - Davis, carried unanimously to accept the Commission's recommendation.

4. Moving the proposed effective date: Rick Baratta stated his preference for a language change to allow for greater flexibility.

MOTION - Baratta, second - Swim, carried unanimously to approve the Commission's recommendation, with the addition of the words "prior to" before the date of January 1, 1984.

5. Adding requirement for POST-approved field training program:

MOTION - Kolender, second - Baratta, carried unanimously to approve the Commission's recommendation.

6. Immunization from justified dismissal or local discipline:

MOTION - Davis, second - Lucero, carried unanimously to approve the Commission's recommendation.

OTHER BUSINESS

- o Rick Baratta gave a brief update of a symposium PORAC will be involved in during November regarding civil rights. This symposium will be modeled after the Professional Issues Symposium. It was developed by the Governor's Task Force on Civil Rights in Law Enforcement. A grant was obtained to look into the role of police in the face of racial, ethnic or religious violence. Speakers and individuals who have been involved in this area will make presentations to the group, which will be limited to approximately fifty people. It is requested that leaders in law enforcement attend this symposium.
- o Brooks Wilson mentioned that a final agenda item, which was the prioritization of these recommendations just voted on for implementation, would be held until the next meeting of the Committee, when he will provide a suggested list of priorities for approval/action. It was suggested that this list be submitted to Committee members for their review prior to the next meeting.

ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 12:15 p.m.

*Nancy*

NANCY APPLEGATE  
Secretary

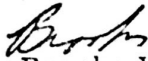
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# Memorandum

To : Task Force on Licensing/Enhanced  
Certification Members

Date : March 13, 1981



Brooks Wilson, Chief, Special Services Bureau

From : Commission on Peace Officer Standards and Training

Subject: PROCEEDINGS, MEETING OF MARCH 4, 1981, SACRAMENTO

The meeting convened at 10:00 a.m. and was adjourned at 12:30 p.m. The purpose of this meeting was to develop the scope and outline of proposed licensing legislation which will be submitted to the policy making bodies of POST, PORAC, and CPOA for mutual endorsement. The meeting was attended by:

Commission

Nathaniel Trives

Task Force Members

James McGill  
Bruce McDowell  
Les Sourisseau  
Richard Gray (for Geo. Tielsch)  
George Hart

POST Staff

Brooks Wilson  
Ron Allen  
Jim Brown

The following summary represents my perception of the conclusions and recommendations from the above meeting. It is not intended to be verbatim minutes. This report will be submitted at the next meeting for consideration.

A. Licensing legislation should extend to all peace officer categories identified in the Penal Code.

1. The group emphasized that universal inclusion is intended to upgrade all classes of peace officer and to eliminate the distinction that now exists between them.
2. It is possible that some peace officer groups, through introspection, and in view of the additional cost that licensing would involve, may choose to legally withdraw from peace officer status. Proposed licensing legislation should be worded so that such withdrawal would not require a legislatively overt act, e.g., in the absence of subscription to licensing provisions, an agency/group would be automatically deleted from Section 830 P.C.

3. In framing legislation, the group should recognize and attempt to address the problem of job-relatedness of universally required basic training.
4. Proposed legislation should articulate reasonable grandfathering provisions. For example (but not necessarily recommended):
  - a. licenses required at a date set in the near future
  - b. current peace officers who meet licensing requirements are eligible for licenses
  - c. provide for equivalency evaluation/testing to determine licensing qualification for peace officers who cannot demonstrate qualifications through documented education and training
- B. Licensing legislation should include sufficient augmentation or supplement to POTF to compensate for any additional costs.
- C. POST should be the licensing agency and POST Regulations and Procedures should be amended to implement licensing law.
- D. Legislation or procedures adopted pursuant to legislation should retain practitioner control (local agency) over quality--selection and training--and local standards beyond minimum established by licensing legislation.
- E. Pre-service training as required by licensing legislation should be construed to mean training required before licensing and not necessarily before hire. Agencies who prefer to hire into the academy could do so, but peace officer (licensed) status would be withheld until licensing requirement--training, experience, testing, etc.--were met.
- F. Proposed legislation should be as simple as possible and avoid disturbing existing laws or regulations.
- G. Legislation should avoid explicit, additional provisions for revocation but should address the issue proactively by the requirements for license.
- H. Status of reserves to remain as now; to be considered part-time peace officers not requiring license.

Task Force Members  
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March 13, 1981

The next meeting will be held in the POST conference room on March 25, at 10:00 a.m. for the purpose of developing proposed legislation which will be submitted to POST, PORAC, and CPOA.

Rick Baratta will be requested to develop proposed legislation within the framework of the above outline. In addition, the Minnesota law, the Florida law and past proposed legislation will be used as references.

**Memorandum**

To : George Williams, Chief  
Center for Police Management  
Commission on Peace Officer  
Standards and Training

Date : July 9, 1979

File No.:

From : Office of the Attorney General

Subject: Request for Legal Assistance dated June 22, 1979:  
GEORGE VALLEGAS.

In a memorandum dated June 22, 1979, you request advice upon a request by the Chief of Police of the City of Patterson for reissuance of a basic certificate to one Mr. George Vallegas. You identify Mr. Vallegas as a former holder of a basic certificate which, following Mr. Vallegas' conviction for violation of Penal Code section 182, subdivision (3) (conspiracy [f]alsely to move or maintain any suit, action or proceeding), was canceled by the Commission. It is understood that the cancellation was in conformity with applicable Commission regulations which have since been repealed. There is at present no question of the correctness of the original cancellation of the basic certificate. The sole question presented is whether Mr. Vallegas, having since been released from penalties and disabilities under Penal Code section 1203.4, is nonetheless disqualified from employment as a peace officer under Government Code section 1029 by virtue of his conviction.

Government Code section 1029, with certain exceptions not relevant here, disqualifies from employment as a peace officer, and from employment conferring the powers and duties of a peace officer, "any person who has been convicted of a felony in this state or any other state . . ." Your memorandum informs us that on September 13, 1976, Mr. Vallegas pleaded guilty to a charge of violation of Penal Code section 182, subdivision (3), and that the court subsequently declared the offense to be a misdemeanor. On February 22, 1979, he sought release from penalties and disabilities under the provisions of Penal Code section 1203.4. Penal Code section 1203.4 allows a court, upon a showing of successful completion of probation, to set aside the original plea or verdict and dismiss the criminal charges. Such dismissal operates to release the probationer from all penalties and disabilities resulting from the offense, except as to subsequent prosecution for any other offense, possession of concealable firearms and certain provisions of the Vehicle Code.

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COMMISSION ON POST

George Williams, Chief  
Center for Police Management  
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Even though section 1203.4 authorizes relief for a probationer from penalties and disabilities resulting from conviction, this section has been construed as not altering the fact that the conviction was suffered. Thus, if the question were whether Mr. Vallegas should be deemed to have suffered a conviction notwithstanding successful resort to the procedures of section 1203.4, the answer would be affirmative. As we pointed out in 59 Ops.Cal.Atty.Gen. 31 (Younger per Berger):

"The courts and the Legislature have narrowed the effects of 'expungement,' at least under section 1203.4, so that the penalties from which the offender is released are limited to those of disfranchisement, criminal registration statutes, and impeachment in civil cases. However, among the harshest collateral effects of conviction is the loss of livelihood through revocation or denial of a business or professional license, loss of civil service employment, etc. These collateral effects have been permitted despite the broad language of Penal Code section 1203.4 purporting to release the offender from 'all penalties and disabilities.'" See 40 So. Cal. L. Rev., supra at 135-43."

Id., at 41.<sup>1/</sup> This result has been justified by the Supreme Court as follows:

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1. As your letter correctly observes, permissible uses of a prior conviction include their consideration in assessment of applications for licensed employment. One opinion of this office, responding to the question whether an applicant for a real estate license must answer affirmatively when asked about a dismissed conviction, states that the "correct answer to the question propounded would be 'Yes,' with the explanation permitted." 1 Ops.Cal.Atty.Gen. 611, 614 (1943). Numerous state licensing bodies are explicitly permitted to revoke professional licenses upon conviction of a crime, notwithstanding that the conviction has been later dismissed. Examples of these vocations are: dentistry (Bus. & Prof. Code § 1679); medical doctors (Bus. & Prof. Code §§ 2383, 2384); licensed psychologists (Bus. & Prof. Code § 2963); accountants (Bus. & Prof. Code § 106); attorneys (Bus. & Prof. Code § 6102); trainers of blind persons in use of guide dogs (Bus. & Prof. Code § 7211.2); cosmetologists (Bus. & Prof. Code § 7431); electronic repair service dealers (Bus. & Prof. Code § 9853); mineral, oil and gas licensees (Bus. & Prof. Code § 10562); pharmacists (Bus. & Prof. Code § 4354).

"The powers possessed by the trial courts under the probation statutes (Pen. Code Secs. 1023, et. seq.) are concerned with mitigation of punishment and confer discretion upon the courts in dealing with a convicted defendant. The power of the court to reward a convicted defendant who satisfactorily completes his period of probation by setting aside the verdict and dismissing the action operates to mitigate his punishment by restoring certain rights and removing certain disabilities. But it cannot be assumed that the legislature intended that such action by the trial court under section 1203.4 should be considered as obliterating the fact that the defendant had been finally adjudged guilty of a crime. This is made clear by the provision that the fact of the defendant's conviction can be used against him in any later prosecution despite dismissal of the action under section 1203.4. In brief, action in mitigation of defendant's punishment should not affect the fact that his guilt has been finally determined according to law. Such a final determination of guilt is the basis for the order of disbarment in this case. That final judgment of conviction is a fact; and its effect cannot be nullified for the purpose herein involved, either by the order of probation or by the later order dismissing the action after judgment." (In re Phillips, [1941] 17 Cal.2d 55, 61 quoted in Meyer v. Board of Medical Examiners, [1949] 34 Cal.2d 62, 64-65).

In Meyer, supra, the Supreme Court went on to make it clear that use of the determination of guilt as a basis for administrative action does not depend upon explicit statutory authorization of that use, such as is contained in the various licensing statutes identified in the margin. The court stated:

"The rationale of the Phillips case is significant in that it was decided at a time when the State Bar Act referable to conviction of a crime involving moral turpitude as cause for suspension or disbarment (Bus. & Prof. Code, §§ 6101-6102, Stats. 1939, ch. 34, § 1, p. 357) was essentially the same as the present provisions of the Medical Practice Act (Bus. & Prof. Code, § 2383, Stats.



George Williams, Chief  
Center for Police Management  
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1937, ch. 399, p. 1275), and the plea or verdict of guilty was deemed the "record of conviction" in "conclusive evidence" of the unprofessional conduct. After the date of the Phillips decision, section 6102 of the Business and Professions Code was amended (Stats. 1941, ch. 1183, § 1, p. 2942) to provide for the disbarment "irrespective of a subsequent order under the provisions of section 1203.4 of the Penal Code." Such amendment served to settle the question of legislative intent in conformity with what this court had held was the proper construction of the probation statute as a nonoperative factor in relation to a disbarment order as the outgrowth of a disciplinary proceeding." (Meyer v. Board of Medical Examiners, *supra*, 34 Cal.2d at 65. Emphasis added.)

It is therefore quite clear that Mr. Vallegas is not entitled in ordinary course to deny the fact that he suffered a conviction, merely because of the dismissal under section 1203.4. (See also, People v. Wiedersperg (1975) 44 Cal.App.3d 550, 553-554; People v. Sharman (1971) 17 Cal.App.3d 550, 552.)

In my view, however, the answer to the present inquiry turns not upon the rehabilitation procedure of section 1203.4, but rather upon the fact that Mr. Vallegas' conviction was declared a misdemeanor by the court. Government Code section 1029 explicitly provides that it is conviction of a felony which disqualifies one from employment as a peace officer. The dispositive question, therefore, is whether the conviction which Mr. Vallegas suffered was a conviction of a felony for purposes of Government Code section 1029. In my opinion the following considerations require the conclusion that Mr. Vallegas' conviction was not a conviction of a felony and therefore Government Code section 1029 does not disqualify him from employment as a peace officer.

Initially, you state in your letter that the offense of which Mr. Vallegas was convicted was declared by the court to be a misdemeanor. You also state that Mr. Vallegas thereafter sought relief under section 1203.4. The letter of the Patterson Chief of Police indicates that the relief sought was then granted. Since relief under section 1203.4 is predicated on fulfillment of statutory conditions relating to probation,



George Williams, Chief  
Center for Police Management  
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I infer that the court's identification of the offense as a misdemeanor was a declaration within the contemplation of paragraph 3 of Penal Code section 17, subdivision (b). That provision states as follows:

"(b) When a crime is punishable, in the discretion of the court, by imprisonment in the state prison or by fine or imprisonment in the county jail, it is a misdemeanor for all purposes under the following circumstances:

". . . . .

"(3) When the court grants probation to a defendant without imposition of sentence and at the time of granting probation, or on application of the defendant or probation officer thereafter, the court declares the offense to be a misdemeanor."

Mr. Vallegas' offense was a felony-misdemeanor, or in common parlance, a "wobbler" (People v. Herron (1976) 62 Cal. App.3d 643, 647), and a crime punishable "in the discretion of the court, by imprisonment in the state prison or by fine or imprisonment in the county jail." Upon the court's action declaring the offense to be a misdemeanor pursuant to section 17(a), therefore, the offense for which Mr. Vallegas was convicted became "a misdemeanor for all purposes," by operation of section 17(b) itself. The conviction is therefore not a conviction of a felony for purposes of Government Code section 1029.

In conclusion, Mr. Vallegas' conviction does not constitute a disqualification from employment as a peace officer under Government Code section 1029, but, because of the limited view taken by the courts of the effect of successful resort to the procedures of section 1203.4, does not preclude consideration of Mr. Vallegas' misdemeanor conviction in assessment of Mr. Vallegas' suitability for employment. In the absence of a regulation of the Commission precluding certification because of a misdemeanor conviction, issuance of the basic certificate is therefore appropriate if Mr. Vallegas meets the Commission's qualifications.

*Carol Hunter for*  
ROBERT L. MUKAI  
Deputy Attorney General

RLM:dh

# Memorandum

o : ROBERT L. MUKAI  
Deputy Attorney General  
Attorney General's Office

Date : June 22, 1979

George W. Williams, Chief  
Center for Police Management

From : Commission on Peace Officer Standards and Training

Subject: Legal Assistance

Attached is a copy of a letter from Lewis M. Ruddick, Chief of Police, City of Patterson, regarding George Villegas who on September 13, 1976, apparently pleaded guilty to 182.3 of the Penal Code and the court subsequently declared the offense to be a misdemeanor. On February 22, 1979, he sought release from penalties and disabilities under the provisions of Penal Code section 1203.4.

It is my understanding that as a result of his conviction of a felony, the POST Basic Certificate that had been issued to him was canceled and recalled in conformance with the Commission's Regulations that were in effect at that time.

It is the desire of Chief Ruddick that POST reissue a Basic Certificate to Mr. Villegas. It is our understanding that Penal Code section 1203.4 is usually to be used by persons who have been convicted of a felony and that the resulting release of disabilities only relates to criminal disabilities, leaving any civil and administrative disabilities intact. Thus, a person in such circumstances must respond that he/she has been convicted of a felony, cannot carry a concealable firearm (Penal Code section 12021), and must be denied employment as a peace officer (Penal Code section 1029). Enclosed is a copy of our publication, Background Investigation Manual: Guidelines for the Investigator; please note Appendix 22 regarding this topic.

While considering the above, what is your advice regarding the employability of Mr. Villegas and his eligibility to receive the POST Basic Certificate?

Your prompt response to this matter and any comments you would care to make would be appreciated.

Enclosure



# City of Patterson

CALIFORNIA

344 West Las Palmas Avenue • P.O. Box 667 Zip 95363 • (209) 892-2041

June 18, 1979

Commission on Peace Officer  
Standards & Training  
7100 Bowling Drive  
Sacramento, CA. 95823

Attn: Administration Division

Gentlemen:

I have appointed Mr. George Villegas (DOB 4-11-46 SSN 553-60-9229)  
to the position of Police Officer.

On September 13, 1976, Mr. Villegas plead guilty to a violation  
of 182.3 P.C. Felony. It was reduced to a misdemeanor by the Court.

On February 22, 1979, he sought relief under 1203.4 P.C. and it was  
granted.

What is necessary for us to do to have his certificates appreciated.

Sincerely,

Lewis M. Ruddick  
Chief of Police

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COMMUNICATIONS SECTION

A-404



Robert L. Mukai  
Deputy Attorney General  
Attorney General's Office

August 7, 1979

**REQUEST FOR LEGAL ASSISTANCE**

Penal Code Section 13510.1, Chapter 231, Statutes of 1979, Assembly Bill 1637 (attached), becomes effective on January 1, 1980. Subdivision (f) of this law states:

The commission shall cancel certificates issued to persons who have been convicted of, or entered a plea of guilty or nolo contendere to, a crime classified by statute or the Constitution as a felony.

The Commission's Regulations and Procedures (attached) currently consider POST's professional certificates to be awards for achievement and are not subject to cancellation because of a person's behavior, including conviction of a felony, subsequent to certificate issuance. The Commission's Regulations and Procedures obviously will be amended to accommodate this new law's provisions.

Question:

Is Penal Code Section 13510.1(f) to be construed to operate only prospectively or does it have retrospective effect as well?

Section (d) of Penal Code Section 13510.1 states:

Persons who are determined by the commission to be eligible peace officers may make application for such certificates, provided they are employed by an agency which participates in the Peace Officer Standards and Training (POST) program.

In Opinion No. CR 75/11 I.L. (attached), the Attorney General's Office responded in the affirmative to the question, "Must the Commission issue certificates to peace officers who are employed by agencies that do not participate in the POST program?"

Bu. Chief

Director

Xerox copy to:

ADMINISTRATION DIVISION FILE COPY

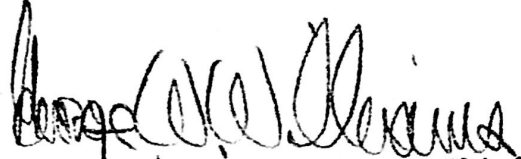
Robert L. Mukai

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August 7, 1979

Question:

Is CR 75/11 I. L. thus overruled by the enactment of Penal Code  
Section 13510.1?



GEORGE W. WILLIAMS, Chief  
Center for Police Management

Attachment

GWW/te